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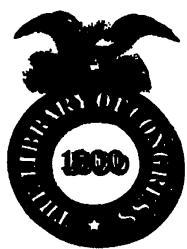
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WARD SUGAR RESOLUTION

HEARINGS

BEFORE THE

COMMITTEE ON AGRICULTURE

1st Congress
HOUSE OF REPRESENTATIVES

SIXTY-SEVENTH CONGRESS

SECOND SESSION

OCTOBER 25, 1921; JANUARY 18 AND 19
AND FEBRUARY 3, 1922

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COMMITTEE ON AGRICULTURE.

HOUSE OF REPRESENTATIVES.

SIXTY-SEVENTH CONGRESS, FIRST SESSION.

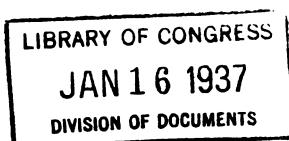
GILBERT N. HAUGEN, *Iowa. Chairman.*

JAMES C. McLAUGHLIN, Michigan.
CHARLES B. WARD, New York.
FRED S. PURNELL, Indiana.
EDWARD VOIGT, Wisconsin.
M. O. McLAUGHLIN, Nebraska.
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MARVIN JONES, Texas.
PETER G. TEN EYCK, New York.

L. G. HAUGEN, *Clerk.*

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WARD SUGAR RESOLUTION.

COMMITTEE ON AGRICULTURE,
HOUSE OF REPRESENTATIVES.

Tuesday October 25, 1921.

The committee met at 10 o'clock a. m., Hon. Gilbert N. Haugen (chairman) presiding.

The CHAIRMAN. Gentlemen, the committee has met this morning for the purpose of considering H. J. Res. 78, authorizing the President to require the United States Sugar Equalization Board (Inc.) to take over and dispose of 13,902 tons of sugar imported from the Argentine Republic.

Mr. TINCHER. Mr. Chairman, I do not suppose there is any possibility of getting this bill passed at this special session, even if it is reported out, and there are two Members of this committee absent; one of them, Mr. Hays, has been in the hospital for some time and has just recently been taken home, where he is recovering. He is very much interested in this proposition. Mr. Sinclair is at home, I think, in a legitimate cause on account of a recall election that is taking place there. I think the hearing ought therefore to go over. I understand the Attorney General is not in town, and I also understand that the Department of State has not furnished the documents requested of them. They have decided on their own initiative that they are unnecessary. If the Attorney General does not appear before the committee, as I understand it, although I do not know that I understand it correctly, you gentlemen have closed your case except that I have a date with Mr. Franklin for a few hours. I think Mr. Hays and Mr. Sinclair have a right to be here, and I would like to have the hearings go over at least a week until they can be here. Mr. Sinclair will be here then and Mr. Hays will be out the latter part of the week.

Mr. CLARKE. I think we have had all the information about this matter, and it is unfair to bring these gentlemen continually down here, and if one member is called away or is necessarily absent this week, some other member will be away next week, and I do not think it is fair to keep continuing the matter,

Mr. TINCHER. When the matter was on the floor before I was criticized by the leaders of the party for not having any information, and I am not quite sure we have not very full information yet; I know we have not.

Mr. WARD. We have all the information that can possibly be obtained.

Mr. CLARKE. I think so.

Mr. TINCHER. I know I have some information that is not in the record, quite considerable, that I hope to put in when I examine Mr. Franklin, and that will take some little time, and I had hoped for a full attendance of the committee, unless there is some real reason for hurrying this thing when they are not here; and we also have an understanding with Mr. Daugherty that after he investigates this matter he will come back before the committee. I do not know whether they have any authority or not, but the committee called for certain documents from the Secretary of State's office, and some one up there has decided that we do not need them.

Mr. WARD. Read the letter from the Secretary of State's office.

Mr. CLARKE. Let us continue with the examination here and these men can get the information you want on the matter.

Mr. McLAUGHLIN of Michigan. Have we a communication from the Secretary of State's office?

The CHAIRMAN. Yes.

Mr. McLAUGHLIN of Michigan. I suggest that the communication be read. (The clerk read as follows:)

STATE DEPARTMENT.
Washington, June 27, 1921.

MY DEAR MR. HAUGEN: I am in receipt of your letter of June 9 referring to H. J. Res. 78, in which you request that you be furnished with copies of all correspondence in the department relating to the transactions referred to in this joint resolution for the information of the Committee on Agriculture.

It appears that the connection of the Department of State with the transaction undertaken by the American Trading Co. at the instance of the Department of Justice was set forth very clearly to the Committee on Agriculture at the last session of Congress, when the resolution was passed by the Senate. Inasmuch as there has been no further correspondence between this Government and the Argentine Government regarding this question since that date, it is my belief that the documents submitted by the Department of Justice to the committee during the last session contain all the evidence at the disposal of the Department of State.

I am, my dear Mr. Haugen,
Sincerely, yours,

CHARLES E. HUGHES.

Mr. RIDDICK. Was that evidence brought before this committee or the Senate committee?

The CHAIRMAN. Before this committee. All the papers were here.

Mr. TINCHER. A young man came down here from the department and brought certain papers, and as a result the committee voted to ask the Department of State to send the entire file on this subject down here so that we might peruse it. I have some information that leads me to think we want to see the entire file. I am perfectly ready, so far as I am concerned, to go ahead with the examination of Mr. Franklin.

Mr. CLARKE (interposing). Then let us proceed.

Mr. TINCHER. But there are some men who have some rights on this committee and one of them is sick, but will be out the last of the week. The other is unavoidably away from town. This is not a killing matter. These gentlemen can surely be here next Tuesday or next Monday, and I make a motion, Mr. Chairman, that if we are to proceed with it at this special session we recess until next Tuesday at 10 o'clock, and I do that on the theory you want to proceed at this session so as to give these men a chance to attend the meeting.

The CHAIRMAN. You have heard the motion. Are you ready for the question?

Mr. WARD. The idea is to get a bill reported out of the committee at this session.

Mr. TINCHER. I want it reported out; that is, if the members want to do that; but I want to give the members a fair chance to be here at the hearings, and I know Mr. Hays, who is sick and has been in the hospital for about three weeks and has just been taken home, has taken a lot of interest in this proposition.

Mr. JONES. There is another member, Mr. Kincheloe, who is very anxious to attend any hearings, and who is compelled to go home this week. If he has not already gone, he is going right away.

Mr. WARD. He is going away to-morrow.

Mr. McLAUGHLIN of Michigan. Mr. Tincher. Mr. Franklin is here and you say your examination of him will take considerable time. Why not go on with his examination and have it put in the record and printed and then everybody can read it?

Mr. TINCHER. I will be candid with you in reference to Mr. Hays. I have a lot of information here about this matter that Mr. Hays helped to procure and I think he ought to be here. He may want to ask some questions, and I do not think it is fair to him, inasmuch as he is sick and this is not a life or death matter. He has taken as much interest as any member of the committee in this matter.

Mr. McLAUGHLIN of Michigan. It just strikes me that there are two things we can take up now properly, your examination of Mr. Franklin, and you say you have information or data that leads you to believe there is something in the State Department we ought to see. Let us know what that is, and maybe we can devise some means to get it, or provide for an inspection of it at least, if the department does not wish to have it leave the department.

Mr. TINCHER. I have stated my reason, Mr. Chairman, and made a motion that we adjourn until next Tuesday.

Mr. JACOWAY. Mr. Chairman, I would like to ask a question for information. It is my understanding that the present Attorney General of the United States is coming before the committee to give his legal opinion as to the merits of this claim.

The CHAIRMAN. We might read the letter from the Attorney General.

Mr. JACOWAY (continuing). And before he comes he wants the entire record *in full before him*, and that was a condition precedent to his coming before the

committee. Now, the question I want to ask is that, has the record, as requested by Mr. Daugherty, been presented to Mr. Daugherty so he will know all about the merits of the claim before he comes and gives his opinion?

The CHAIRMAN. The clerk will read the letter from the Attorney General.
(The clerk read as follows:)

DEPARTMENT OF JUSTICE,
OFFICE OF THE PRIVATE SECRETARY,
Washington, October 22, 1921.

Hon. GILBERT N. HAUGEN,

House of Representatives, Washington, D. C.

MY DEAR CONGRESSMAN: In the absence of the Attorney General, I beg to acknowledge your letter to him of the 20th, inclosing copies of the reports of hearings on sugar (H. J. Res. 78), and advise you that the same will be brought to his attention as soon as possible after his return.

Thanking you, I am,

Yours, very truly,

W. F. GIBBS, *Private Secretary.*

Mr. JACOWAY. Mr. Chairman, in order to facilitate the matter, if it is in order, I move that a committee of three members be appointed to wait upon the Attorney General and ask if there is any additional record he wants before he can make up his mind as to the status of this claim, because he can not come before us until he knows the entire facts.

Mr. ASWELL. Why not have the chairman ask him about that?

Mr. JACOWAY. I dare say every member of this committee is going to be influenced by Mr. Daugherty's opinion in regard to the matter; and if the entire record is not before him, I think it ought to be before him, and this is the only avenue we have for getting the testimony before him; and, if the motion is not out of order, I make that as a motion.

The CHAIRMAN. Do you withhold your motion, Mr. Tincher?

Mr. TINCHER. Yes; I gladly withhold it for that purpose.

Mr. RIDDICK. I would like to amend the motion in order to provide that the chairman communicate with the Attorney General.

Mr. JACOWAY. That is entirely satisfactory to me.

Mr. KINCHELOE. Mr. Chairman, I just got in here. Have you a motion pending?

Mr. TINCHER. My motion was that we recess until next Tuesday, on account of the absence of two members, one of whom has been confined to home and in the hospital by sickness for some time.

Mr. KINCHELOE. I would just like to make this observation before any of the motions are voted upon, if the chairman of the committee will indulge me: Personally—although this is not what I arose to say—I have got to leave here to-morrow, and will be gone until after the November election; but my own opinion is that I do not think that you are going to get the Attorney General here now with this railroad strike pending. His mind, of course, will be absorbed with that proposition, which is a serious proposition, and I notice that he has summoned various United States district attorneys here in conference from all over the country. My guess is he will not think about this proposition at the present time, and I do not blame him for that. It is very patent there is not going to be any of our bills passed upon that we may report or may have reported before the December session.

I do not know how other members of the committee feel about the hearings, but personally I am ready to go on and attend these hearings and hear everybody who wants to be heard. I think we ought to do that, but I think we should have these hearings just as close to the consideration of the bills as possible, because I know that every member of the committee is busy, and I do not like the idea of coming here and giving my attention to these matters and trying to digest them and then, after a lapse of time, the bill comes up and then I have to go back to the hearings and read them again and refresh my memory about the entire proposition. In view of that fact I do not see where we make much progress in going on with hearings here when we know the bills we are considering are not coming up before the House. That is the way I feel about it myself, and that applies not only to this legislation but to all the rest of it. I do not mean to specify just this bill.

Mr. TINCHER. Mr. Chairman, Mr. Ward has suggested that he can not be here until the 10th of November, so that I will amend my motion to make the 11th of November.

Mr. GERNERD. That is Armistice Day, and you do not want to have anything of this sort during that week. Let us have a little vacation during that week.

Mr. TINCER. Yes; what we ought to do is to put this down as the first hearing after the regular meeting of Congress.

Mr. CLARKE. It seems to me that these men have been summoned down here for a definite hearing, and I do not know of any reason why time after time the matter should be adjourned for one reason or another. I agree with Mr. Kincheloe's observations; I do not believe there will be any action so far as this Congress is concerned, but as a matter of common honesty and fair dealing with these sugar men I think we ought to appoint a certain day, and if our members can not be here, we ought to go right ahead with it.

Mr. McLAUGHLIN of Nebraska. Mr. Chairman, I am wondering if there have been very many times when this matter has been adjourned. Of course we had quite an extensive hearing on this resolution. Have there been many times when these gentlemen have been called down here and have not been permitted to proceed; you say "time after time."

Mr. CLARKE. Two or three times at least. At one time I was away when a bill was up which concerned me more, perhaps, than it concerned any man around this table, unless it be Mr. Voight. That was in reference to the filled-milk bill. I was away, and I was given no particular consideration except the chairman notified us by wire that we could include our vote on that bill by wire. The matter was not adjourned because I was not here, and yet I come from the greatest dairy-producing center in the United States.

Mr. McLAUGHLIN of Michigan. Mr. Chairman, I move to amend Mr. Tincher's motion to the effect we take this matter up the first thing after the convening of the December session.

Mr. JONES. I second that motion.

The CHAIRMAN. Will the committee dispose of the other motion first?

Mr. RIDDICK. I will withdraw my amendment to that motion.

The CHAIRMAN. Are you ready for Mr. Jacoway's motion?

Mr. McLAUGHLIN of Michigan. What is your motion, Mr. Jacoway?

Mr. JACOWAY. My motion was that a committee of three be appointed to wait upon the Attorney General of the United States and ask if the record he now has before him is complete or whether there is any additional information he desires in order to inform himself before he comes before the committee to tell them of the equity of this matter.

That is a condition precedent that has to be complied with before we will get anywhere, because I know there are members of the committee who want the opinion of the Attorney General.

Mr. McLAUGHLIN of Michigan. Mr. Chairman, I think inasmuch as we have asked the Attorney General to come here and he has come and talked to us and we have asked for his opinion, we ought to wait for his opinion before taking final action, and I think it is entirely proper for the chairman or some one else on behalf of the committee to communicate with him and find out what his convenience will be with reference to giving his opinion and what information he wants in order to enable him to form an opinion; but I do not think it is necessary now to delay the hearing until that time. These men are here and we rarely have a larger attendance than we have to-day.

Mr. JACOWAY. I do not mean this to interfere with any additional testimony we want to take, but I know that that is a matter that has to be complied with before we get his opinion. Let the other matter go on just as the committee wishes.

Mr. McLAUGHLIN of Michigan. Some course of that kind ought to be pursued, and I have no objection whatever to your motion.

Mr. JACOWAY. I want to include in that motion that the chairman be a member of the committee.

(The motion of Mr. Jacoway, having been duly seconded, prevailed.)

Mr. McLAUGHLIN of Michigan. Now, it might be proper for me to express my opinion. I think we can go along now with the hearings. Some of the gentlemen are here and we could have a record made of what they have to say and save time. We rarely have a larger attendance than we have now, and we are not doing very much in the House, and it seems to me we ought to take this time to hear these men, and, in my judgment, there ought not to be the delay that is suggested by the motion if it will preclude us from taking the testimony of the gentlemen who are now here.

Mr. RIDDICK. I am wondering, Mr. Tincher, whether some of the evidence produced to-day might be of value to the Attorney General in forming his opinion?

Mr. TINCHER. I have told my reasons why I did not want to go ahead now, and that is because I worked with Mr. Hays during the vacation of Congress in getting some facts together, and Mr. Hays is now sick. He is a good attendant on the committee when he is well, and the fact is I think he wants to ask a few questions himself on the proposition. I am willing, however, to have a vote, and whatever the committee decides will be all right. Mr. Franklin is a man whom we both want to examine, and he is always here, so there is not any trouble about that; he is handy.

Mr. FRANKLIN. I would like to say here that I may appear to be always in Washington, but I really am not. I have my duties in New York, and I am there practically constantly, but I am very glad to come down here at any time.

Mr. TINCHER. You want to come down when the Attorney General comes before the committee.

Mr. FRANKLIN. I will be here at any time you gentlemen want me to be here, and I will be very glad to give you any information I have. That is understood. I will be very glad to appear to-day and go on with anything anybody wants to ask about.

Mr. TINCHER. If you did appear to-day, you would be back when the Attorney General comes before the committee?

Mr. FRANKLIN. I will be here, sir, at any time this committee meets to consider this resolution, if I am allowed to be in the room at the time the session takes place.

Mr. KINCHELOE. Mr. Chairman, let us vote on these motions.

Mr. TINCHER. I will accept the amendment of Mr. McLaughlin of Nebraska.

The CHAIRMAN. The motion, then, is that the meeting be postponed and that this hearing be the first hearing after the convening of Congress in December.

Mr. McLAUGHLIN. Then we will have to submit everything after that to the Attorney General, and there will be further delay. It seems to me we ought to get together such testimony as we can and submit the whole thing to him.

Mr. JONES. Why can not it be submitted in the meantime to the Attorney General?

Mr. CLARKE. Because Mr. Tincher has additional facts he wants to get in the record.

Mr. WARD. I will not be able to be here in December.

Mr. TINCHER. I assume we will all be here for the opening of the regular session of Congress?

Mr. WARD. I expect to go to Europe.

Mr. VOIGT. Mr. Chairman, the committee has heard all the evidence in this matter once before. Any member who wants to get information on this resolution, I take it, can get it by reading the former hearings. I would like to inquire of the members present whether there is any further light a member here can shed on this subject?

Mr. TINCHER. Yes; considerable light; and I intend to put it in the record.

Mr. WARD. By questioning Mr. Franklin?

Mr. TINCHER. Yes.

Mr. WARD. Then go ahead.

Mr. TINCHER. We will vote, I guess, on this other proposition. I want to adjust myself to the convenience of everybody, as best I can, but we have a motion pending not to take this matter up until the regular session.

Mr. VOIGT. Mr. Chairman, personally I am ready to vote on this proposition now. I have all the information I think I am ever going to get on it, and I am not in favor of this delay until the December session. I have not any interest in this resolution further than to do justice. Now, if the further light that is to be shed on this subject consists of an examination of Mr. Franklin by Mr. Tincher, I think, in all fairness, that that examination should proceed right now.

The CHAIRMAN. Are you ready for the question of postponing the hearing until the first meeting in December?

Mr. WARD. I am opposed to that motion. I think there could be no object in delaying this matter except to defeat it. The facts are all here, and there can not be any more facts given, and I am ready to make a motion to vote the bill out right now.

Mr. WILLIAMS. Without hearing the Attorney General?

Mr. WARD. I do not think the action of this committee should be held exclusively to the Attorney General's opinion, as I believe we are very well able from the information we have had to decide what we want to do or what we do not want to do.

Mr. McLAUGHLIN of Michigan. I differ from you there. The Attorney General was before us and we have asked him to give an opinion. We have told him we would submit all the testimony to him. We have not done it, and in courtesy to him I think we ought to submit the testimony and give him a reasonable time to form his opinion and then appear before us and tell us what it is.

Mr. CLARKE. I think that is right.

Mr. McLAUGHLIN of Michigan. But it seems to me there will be unreasonable delay if we postpone to the December session the taking of testimony, because it will have to be submitted to the Attorney General, and he will want all of it, and then the Chairman or some one else is going to see the people at the State Department in order to get certain matters, and perhaps some of that ought to go before the Attorney General. I do not see why we should postpone this matter until December. If we have the testimony given then, and submit it to the Attorney General and then give him time to make up his opinion and appear here, there will be unnecessary delay. So far as the Attorney General is concerned, I would like to know his opinion on the legal proposition of whether there is a legal liability here. The question of the moral liability of the Government on this proposition, I think, is up to this committee to determine, and I shall use my own judgment and not the judgment of the Attorney General on that phase of the question. It would seem to me we ought to go on with what we can reasonably do now. We can save a great deal of time, and I can not see any impropriety in it or any unfairness to anybody.

Mr. JACOWAY. Mr. Chairman, I want to make this supplementary statement. This committee of the House, in my opinion, has more important legislation before it than any other committee of the House, and the time of the committee, as well as the time of the members of the committee, is very valuable. Likewise, the time of the gentlemen interested in this resolution is valuable, and I feel that if we do not make more progress in disposing of this matter than we have already made little children will be grandparents before we get it out of this committee. I agree with Mr. McLaughlin of Michigan that we owe this courtesy to the Attorney General in order that he may be acquainted with the entire record. Another thing, so far as I am concerned, my mind is made up on the merits of this resolution, but I am in the attitude of a juror qualifying for service upon a jury; my mind can be changed by testimony. If the testimony that has been referred to by Mr. Tincher is forthcoming and he can make good on the proposition that he has other testimony that has never been brought before this committee, as one member of the committee I am going to insist that the record be full and complete, and I am unwilling to vote this resolution out of the committee this morning, even though my vote would vote it out, but I think we have delayed too long. Let us complete the record and let the record be as comprehensive in detail as possible, so that when we meet here in December we can refresh our memories and then either vote this bill out or not vote it out. So far as I am personally concerned, I think Mr. Franklin ought to be heard and then I think the Attorney General ought to be heard, and then when you have done that you have the different elements in the equation completed and every member of this committee can arrive at an honest and just conclusion in regard to what ought to be done.

Mr. Voigt. Do you not think we ought to go on now and complete the record?

Mr. JACOWAY. I have stated that. I would hate to get upon the floor of the House and then have some testimony come out that we knew nothing about and have the gentleman who wanted to introduce that testimony say that they were precluded from presenting the testimony before the committee. Let the record be as complete as human ingenuity can make it, and then vote the resolution out or vote it down.

Mr. KINCHELOE. Mr. Chairman, if we should postpone this matter until the 1st of December, with the understanding that we were to take this up first, everybody would be here then and we would get right down to work on it every day and we would not lose any time at all.

Mr. McLAUGHLIN of Nebraska. Not a minute.

Mr. KINCHELOE. We would also have this additional testimony fresh in our minds when the resolution was reported out, if it was reported out.

Mr. WARD. We could not report it out then because we would have to submit the record to the Attorney General.

Mr. KINCHELOE. That is one reason I am in favor of postponing it until December. We all know the great responsibility now on the Attorney General of the United States in connection with the impending railroad strike, and I think it would be an injustice to him to ask him to divert his mind from that matter to this resolution, and my own opinion is—and I think I am right about it—we will not get any opinion from the Attorney General before the 1st of December anyhow; and I think it would be an act of discourtesy to him to undertake to report the matter out without his opinion, because the question has already been submitted to him.

Mr. McLAUGHLIN of Michigan. He will have to have all the testimony. You say we can get his opinion by the 1st of December, but we would not begin to take the testimony until that time.

Mr. KINCHELOE. It would be only a matter of a few days.

The CHAIRMAN. Mr. Jacoway, you spoke about there having been a delay. You are not holding the committee responsible for that delay?

Mr. JACOWAY. I am not charging anybody with delay, but I know the fact remains there has been delay. As to who has been responsible for that I do not know.

Mr. JONES. Let us have a vote on the motion, Mr. Chairman.

The motion of Mr. Tincher, having been duly seconded, prevailed.

The CHAIRMAN. Mr. Snell has requested a hearing on January 9, 1922, on H. R. 129, to provide, through cooperation between the Federal Government, the States, and owners of timber lands, for adequate protection against forest fires, for reforestation of denuded lands, etc.

Mr. VOIGT. Mr. Chairman, I move that they be heard at that time.

The motion, having been duly seconded, prevailed.

(The committee thereupon adjourned.)

COMMITTEE ON AGRICULTURE,
HOUSE OF REPRESENTATIVES,
Washington, January 18, 1922.

The committee met at 10 o'clock a. m., Hon. Gilbert N. Haugen (chairman) presiding.

Present: Mr. Haugen, Mr. McLaughlin of Michigan, Mr. Ward, Mr. Purnell, Mr. Voight, Mr. McLaughlin of Nebraska, Mr. Riddick, Mr. Tincher, Mr. Williams, Mr. Sinclair, Mr. Hays, Mr. Thompson, Mr. Gerner, Mr. Clague, Mr. Clarke, Mr. Jacoway, Mr. Rainey, Mr. Aswell, Mr. Kincheloe, Mr. Jones, and Mr. Ten Eyck.

Mr. TINCHER. Mr. Chairman, if we are starting in on the sugar hearings, I would like to ask the clerk of the committee a question or two.

Mr. ASWELL. Have the gentlemen any further evidence to submit to the committee, Mr. Ward?

Mr. WARD. None that I know of.

STATEMENT OF MR. L. G. HAUGEN, CLERK OF THE COMMITTEE ON AGRICULTURE, HOUSE OF REPRESENTATIVES.

Mr. TINCHER. Mr. Haugen, at a former meeting of this committee we requested the Secretary of State to furnish all the correspondence and files concerning this sugar transaction. You have some correspondence with the Secretary of State on that subject, have you not?

Mr. HAUGEN. Yes, sir; I have a letter here from the Secretary of State. Shall I read it?

Mr. TINCHER. Yes; if you will.

Mr. HAUGEN (reading):

THE SECRETARY OF STATE,
Washington, June 27, 1921.

MY DEAR MR. HAUGEN: I am in receipt of your letter of June 9, referring to H. J. Res. 78, in which you request that you be furnished with copies of all correspondence in the department relating to the transactions referred to in this joint resolution for the information of the Committee on Agriculture.

It appears that the connection of the Department of State with the transaction undertaken by the American Trading Co. at the instance of the Depart-

ment of Justice was set forth very clearly to the Committee on Agriculture at the last session of Congress, when the resolution was passed by the Senate. Inasmuch as there has been no further correspondence between this Government and the Argentine Government regarding this question since that date, it is my belief that the documents submitted by the Department of Justice to the committee during the last session contain all the evidence at the disposal of the Department of State.

I am, my dear Mr. Haugen,
Sincerely, yours,

CHARLES E. HUGHES.

HON. GILBERT N. HAUGEN,
House of Representatives.

Mr. McLAUGHLIN of Michigan. The Secretary speaks of a resolution of the Senate. Did some of this correspondence go to the Senate?

Mr. WARD. No; he is simply speaking of the resolution which was passed by the Senate.

Mr. McLAUGHLIN of Michigan. It was not a resolution asking for the correspondence.

Mr. WARD. No; that is not what he referred to at all.

Mr. HAUGEN. The letter states:

"It appears that the connection of the Department of State with the transaction undertaken by the American Trading Co. at the instance of the Department of Justice, was set forth very clearly to the Committee on Agriculture at the last session of Congress, when the resolution was passed by the Senate."

Mr. WARD. He refers to the original resolution.

Mr. McLAUGHLIN of Michigan. Do you know whether or not some papers have been given to the Senate committee that have not been filed here?

Mr. WARD. No.

Mr. TINCER. I do not, and I want the record to show, Mr. Chairman, that my reason or the committee's reason, I suppose, for asking for this correspondence was because a young gentleman formerly in the Department of State, and at that time connected with the Department of State, appeared before this committee and gave evidence in favor of these claims, and on examination it was disclosed that we had no portion of the correspondence and no information concerning the actual correspondence between the Department of State and the Argentine Government.

I have examined the Senate hearings and have them before me, and have been present at all the hearings we have had on this bill in the Agriculture Committee of the House, and I know there has never been an opportunity offered to this committee to examine that correspondence, and there is nothing printed showing that it has ever been offered to any Senate committee, and as far as I am concerned, I am unwilling to pass the matter up in that way. When this bill was reported out before, it caused some comment on the floor of the House, and it was unanimously agreed by the men who do things on the floor that we had not gone into the matter thoroughly. I was criticized and I suppose other members of the committee were criticized because we had not gone into the matter as thoroughly as we could have gone into it. I do not see much excuse for our not getting the information which this young man, appearing from the State Department, said existed up there. He did not undertake to repeat the conversation, but he testified about the records up there, and still we have not had the records to examine.

Mr. CLARKE. I have just received a copy of a letter that was addressed to the chairman of the committee in reply to a letter which he sent to the Attorney General, and it would seem to me that if the Attorney General has looked into all the legal phases of this matter in a thoroughly fair way and has examined into all the facts and circumstances of the case, so far as I am concerned, I am perfectly willing to take the opinion of the Department of Justice as to the legality of this claim.

Mr. TEN EYCK. May I ask if that letter has been put in the record.

Mr. CLARKE. No.

Mr. TEN EYCK. Mr. Chairman, do you not think that letter ought to be put in the record?

Mr. CLARKE. This is a copy of the Attorney General's reply to your letter.

The CHAIRMAN. Certainly, but I thought you wanted to dispose of this other matter first.

Mr. TINCER. Every man has to satisfy his own conscience about these matters. I have a little different view from the opinion you express. My notion is that the people elect you and I to represent them here in Congress, and it becomes our duty to pass laws. If this matter was not in the nature of a matter requiring a law to be passed which it is our duty to consider, it would not be submitted to this committee. Now, there is certainly information in the Department of State. There has been a lot of correspondence carried on with the Argentine Government, and, with the very highest regard for Attorney General Daugherty, I know that we have made more efforts in this committee, have had more time and opportunity to get information, perhaps, outside of examining this correspondence, than he has had. We have finally got to arrive at a conclusion on it, and I think, in fairness to the committee, instead of taking some other man's opinion, after having examined that correspondence, the committee should have an opportunity to examine it.

Mr. WARD. Do you believe the Department of State would be in favor of not telling the truth?

Mr. TINCER. No; I do not say that, but I mean to say that I am not bound by any conclusion some other department has arrived at by examining some facts, and it is my duty to go into those facts as well.

Mr. JACOWAY. Just in a word, what is the situation? Do you want more testimony?

Mr. TINCER. You will recall that a very dapper, fine looking young man, from Indiana, who was with the State Department, came down here and told this committee that we ought to pay this claim because of the connection the Secretary of State's office had had with the claim through him, and I asked him if the transaction was in writing, and he said "Certainly; there was a big file on it." and I said that as one member of this committee I wanted to examine that correspondence, and the committee by unanimous vote requested that the correspondence be furnished to this committee for our examination. Now, we come back here and we are asked to take as a substitute for that the opinion of some one who has had the opportunity, no doubt, of examining that correspondence. I do not propose to go on the floor of the House and say that I could not get the correspondence, but I got the opinion of my friends on it.

Mr. CLARKE. Are not those matters referred to by the Department of Justice?

Mr. JACOWAY. I thought it was the viewpoint of the committee that a committee be appointed to wait on the Attorney General and ask him for an official opinion. Now, the correspondence may have been called for, and I would be very glad to see that.

Mr. JONES. The correspondence was called for by a resolution passed by the committee.

Mr. JACOWAY. I thought all the correspondence was in the brief which was filed by the sugar people.

Mr. TINCER. Oh, no; this young man admitted there was a whole stack of correspondence there, and when we reported this bill out before, we were criticized and Members came to me and said, "I thought you knew how to get at facts." "Why did you not get at the facts and present them," and personally I intend to get the facts the best I can.

Mr. TEN EYCK. I would like to ask the gentleman what the duty of the Attorney General is, what is his position, what is he paid for?

Mr. TINCER. The Attorney General is a member of the Cabinet appointed by the President, whose duty it is to give us legal opinions, I suppose, as well as any other Federal officer; but that does not preclude us from examining the facts for ourselves.

Mr. TEN EYCK. But you will admit that he has given us his legal opinion with reference to this matter, and do you not think he is a competent man. I would like to know whether you think Mr. Daugherty is a competent man?

Mr. TINCER. Yes, I do. You can not get up any quarrel between Mr. Daugherty and myself. I have talked with him about this claim.

Mr. TEN EYCK. Then are you not willing to take his advice?

Mr. TINCER. Do you mean to ask whether I am willing to let a member of the Cabinet tell me what law I shall pass or shall not pass?

Mr. TEN EYCK. If he is hired for that purpose, as regards its legality.

Mr. TINCER. Any man whose conception of his duty as a Congressman is that he should pass laws at the beck and call of a Cabinet officer ought to stop, look, and listen.

Mr. TEN EYCK. I like to listen to what the Cabinet officers who are opposed to me politically have to say about it, and if they agree with me, then I come to think that we are pretty nearly right.

Mr. JONES. I want to state in this connection that the Attorney General has rendered an opinion in this matter, and I was glad to get his opinion, but it developed in the examination of one of the witnesses that only a very limited portion of the correspondence that had passed between the State Department and the officials of these companies was disclosed in the brief, and in the evidence before the committee. A resolution requesting the State Department to furnish the complete correspondence, if it was not contrary to the public welfare, or something to that effect, properly safeguarding it, was thereupon passed. Now, I am like Mr. Tincher, I would like to see this original correspondence unless there is some reason why it should not be furnished.

Mr. PURNELL. As a matter of information, I should like to know when that request was made? What is the date of the hearing before the committee at which time we determined by a vote of the committee to ask for this additional testimony or correspondence?

Mr. JONES. I have forgotten the young man's name, but there was a young man here who was formerly with the Department of State.

Mr. TINCHER. And he said he was from Indiana.

Mr. PURNELL. I remember he said he was from Indiana.

Mr. TINCHER. And he stated that this was only a small part of the correspondence.

Mr. HAUGEN. The date was June 9, 1921.

Mr. JONES. It does seem to me that the committee is entitled to that information.

Mr. TEN EYCK. But is it fair to hold the case up when it does not appear that anybody is going to make an effort to get the information. Are you going to hide behind the skirts of "wanting more information," and then make no effort to get it? I hold that anybody who knew that he was going to take that position should have made an endeavor to get the information and had it sent to us.

Mr. JONES. I do not know whether the resolution directed the secretary to call for the correspondence or the chairman, but I suppose it was called for in the regular way.

Mr. PURNELL. This letter from the Secretary of State is dated June 27 and is in reply to a request from the committee, based on that resolution which was passed. That is the reason I ask for the date. Mr. Chairman, if this letter has not been made a part of the record, I think it should be.

The CHAIRMAN. It has been made a part of the record.

Mr. JONES. That is with reference to a House joint resolution. It does not refer to the resolution the committee passed at all.

Mr. PURNELL. That was subsequent to the time when the information was asked for.

Mr. JONES. I understand that.

The CHAIRMAN. That is the information which we received from the State Department in reply to our request.

Mr. TINCHER. Mr. Chairman, if we may proceed in order, in connection with this point, I desire to read into the record a notice that the chairman of this committee gave to the Secretary of State, to which the letter read by Mr. Haugen, the clerk of the committee, was an answer. On June 9 the chairman of this committee wrote Secretary Hughes as follows:

JUNE 9, 1921.

Hon. CHARLES E. HUGHES,
Secretary of State.

MY DEAR MR. SECRETARY: The Committee on Agriculture is at present considering H. J. Res. 78, authorizing the President to require the United States Equalization Board (Inc.) to take over and dispose of 13,902 tons of sugar imported from the Argentine Republic.

I have been instructed by a resolution adopted by the committee to request you to furnish the committee with copies of all correspondence of your department relating to the transactions referred to in this joint resolution.

Very truly yours,

That letter was signed by the chairman of the committee.

Mr. VOIGT. What is the date of that letter?

Mr. TINCER. June 9.

Mr. ASWELL. What more could the Secretary of State say than he has already said? He has said that he did not have anything more that was new.

Mr. TINCER. Mr. Chairman, I do not want to be contentious about this matter, but I want the record to be clear. This resolution was passed by a unanimous vote of the Committee on Agriculture, as the result of the testimony of a man from the Department of State who appeared here on behalf of these claims and testified for them. Will some one tell me his name?

Mr. FRANKLIN. His name is Mr. Wiley.

Mr. TINCER. Yes; Mr. Wiley, who admitted in the course of his testimony that the correspondence between the Department of State and the Argentine Government was voluminous. It was at that time I offered a resolution which was adopted by unanimous vote calling for this correspondence. I want to call attention further to the fact that we have not now any portion of that correspondence before the committee, and as far as I am personally concerned, while I do not hold myself as the regulator of other Members or anything of that kind, I would like very much to have examined that correspondence, especially in view of the testimony given here by this young gentleman who appeared here as the man who handled this thing for the Department of State.

Mr. CLARKE. I would like to supplement Mr. Tincher's statement by putting in the record right here a copy of a letter from the Attorney General to the chairman of this committee, being the opinion of the Attorney General's office.

Mr. ASWELL. I think very highly of that opinion, inasmuch as it corresponds with the opinion of the former Democratic Attorney General.

The CHAIRMAN. Will you read the letter, Mr. Clarke?

Mr. CLARKE. This is a copy of a letter dated January 17, 1921.

Mr. TEN EYCK. Mr. Chairman, do you not think we had better read the original letter into the record rather than a copy.

The CHAIRMAN. The clerk has the original letter and will read it.

Mr. WILLIAMS. Is it a letter from the Attorney General?

Mr. CLARKE. It is a letter from Mr. Guy D. Goff, assistant to the Attorney General.

(The clerk read the letter referred to, as follows:)

DEPARTMENT OF JUSTICE,
OFFICE OF THE ASSISTANT TO THE ATTORNEY GENERAL,
Washington, January 17, 1921.

Hon. GILBERT N. HAUGEN,

*Chairman Committee on Agriculture,
House of Representatives, Washington, D. C.*

DEAR MR. CHAIRMAN: In response to the request of the committee at the hearing on June 9 last for an opinion upon the legal obligation of the Government to indemnify the American Trading Co. and B. H. Howell Son & Co. for losses suffered in connection with the importation of sugar from Argentina, as proposed in H. J. Res. 78, I take this occasion to submit for the committee an informal expression of the view of this department.

The Attorney General expressed the view before the committee that there was an undeniable moral obligation, and, in his opinion, a legal obligation upon the Government. The committee has also been fully informed of all the facts from competent sources, as appears from the statements before it and the reports of the several committees which have considered the subject, including its own majority and minority report, No. 1276, dated February 1, 1921. The facts shown therein indicate the ground of legal liability. They are not, as far as can be ascertained, seriously questioned. They plead powerfully in behalf of the companies and show that it was in pursuance of authority to deal with the then existing high prices that the Attorney General became connected with the matter and used these companies to ameliorate that condition.

The Attorney General, in the exercise of authority derived from the Lever Act and conferred on him by the President, was authorized to use means which were necessary and appropriate to provide the country with an adequate supply of sugar. That the arrangement between the department and Howell Co. and the Trading Co. was proper means is, of course, beyond doubt, because it brought to pass the relief for which it was used and brought it to pass in a much greater measure than was expected. Indeed, its very efficacy is among the important facts causing the loss.

As a matter of law, however, the question is rather whether these companies were such agencies as were intended in the Lever Act and the instrument conferring authority upon the Attorney General. The agencies there referred to were, of course—because of the peculiar situation then existing—not limited to such only as previously had been recognized or used; and consequently it is not necessary to establish here a strictly legal relationship of agency in which the agent is entirely subject to the control of the principal. Apart from the arrangement entered into with the department, these companies were independent importing and distributing agencies, but with respect to that arrangement, while retaining much of their independence, which indeed was necessary for the purpose, they were in a very large measure controlled by the department, and especially in those particulars out of which the loss immediately grew; for instance, in connection with authority to ship from Argentina and distribute sugar in this country. That they were in these particulars controlled by the Government, that the loss is attributable to such control, and that but for the control the loss might have been prevented appears from the fact that the Government prohibited the sale of the sugar in the Argentine when the loss was foreseen. And that this prohibition was respected establishes the fact that the Government's control was understood and that obedience to its order would not result in loss to the companies.

In the view of the department there is no uncertain authority in law under which the Attorney General acted; nor is it possible to consider this subject as a legal matter apart from its equitable nature. The view that there is no legal liability is at best doubtful, and it must be kept in mind that as a legal, and especially as a practical matter, the equities which so strongly color the facts will distinctly tend to resolve doubtful legal questions in favor of the companies. These claims may indeed be termed debts of the United States, debts of that peculiar character which dictate relief at the hands of the Congress, as intimated by the Supreme Court in the following passage from *United States v. Realty Co.*:

"What are the debts of the United States within the meaning of this constitutional provision (art. 1, sec. 8)? It is conceded, and indeed it can not be questioned, that the debts are not limited to those which are evidenced by some written obligation or to those which are otherwise of a strictly legal character. The term 'debts' includes those debts or claims which rest upon a merely equitable or honorary obligation, and which would not be recoverable in a court of law if existing against an individual. The Nation, speaking broadly, owes a 'debt' to an individual when his claim grows out of general principles of right and justice; when, in other words, it is based upon considerations of a moral or merely honorary nature, such as are binding on the conscience or the honor of an individual, although the debt could obtain no recognition in a court of law."

As stated in another letter to you upon the subject, in view of the peculiar obligation upon the Government in this case, in which there appears to be general acquiescence, it seems to the department, after a review of all the evidence, that the legislation should be passed.

Respectfully,

GUY D. GOFF,
Assistant to the Attorney General.

MR. TINCER. On the subject of this correspondence and whether the committee shall have it or not, while I have the very highest regard for Mr. Goff as a lawyer and as a gentleman and as a statesman, I want to call attention to the fact that Mr. Goff's opinion that we should pass this legislation is based upon such facts as he had at his disposal. Whether we shall indulge in the presumption that he had more facts than we are able to get and be satisfied that he had all the facts, is a question that the committee should decide.

MR. ASWELL. Does he not say that he has gone into all the evidence?

MR. TINCER. Let me finish this statement first, please, because I have something definite in mind. I want to suggest here that Mr. Goff's letter very clearly demonstrates that he bases his opinion that the bill should be passed and this money paid to these people on the assumption that this Government prevented an equitable transaction by which these companies could resell their sugar in the Argentine, whereas my understanding has been from what little evidence we could get, although we can not get the full file and correspondence, that these companies never offered to sell the sugar in the Argentine except at *an exorbitant profit*, and that they were not held up any length of time in

making a resule there, but owing to the price at which they offered to resell the sugar in the Argentine, they should have been prevented from selling it, because they had gone down there and put the price of sugar up, and they should not have been permitted to have exacted any such profit as they were asking, and I think the letter of Mr. Goff emphasizes the fact that this committee should examine the papers and documents in order themselves to arrive at their own conclusion as to whether or not we should favorably report this bill. This committee has passed a resolution and has requested that these files be brought here for our examination and perusal. I do not think any Member of Congress has the right to go down to the Department of State and ask to see something that the committee could not have produced and presented here. I simply wanted to call attention to the status of this matter.

Mr. ASWELL. Does not Col. Goff say he has examined all the evidence in this case?

Mr. TINCHER. No; he does not say he has examined all the evidence. He has, no doubt, examined this evidence here.

Mr. WILLIAMS. I do not suppose they would submit evidence to him which they would deny giving the committee.

Mr. McLAUGHLIN of Michigan. Mr. Chairman, I guess everybody on this committee knows I have been in favor of reporting this bill favorably. I have been influenced only by the testimony that has been offered. I believe the testimony shows a condition of affairs that the Government ought to take notice of. The Government has obligated itself and ought to pay this money. As I say, I base my opinion on the testimony. There is a very strong suspicion to the effect that all the testimony has not been available to this committee. I think it ought to be available. I agree with Mr. Tincher. We have a right to look over these papers ourselves. We are not necessarily bound by the conclusions reached by the Secretary of State as to what those papers show or as to the conclusions to be drawn from those papers. We are not bound by the opinion of the Attorney General as to what those papers show or the conclusions to be drawn from them. It is our duty to see those papers ourselves and draw our own conclusions. I think the Secretary of State should have complied with our request to send all the papers or copies of them to this committee. It often happens in connection with diplomatic matters that the papers can not be made public and should not be made public. I would be willing, of course, and we must observe the usual rules in a situation of that kind, but I see no reason why we can not examine the papers. If the Secretary had said that there were some papers that ought not to be made public, and that copies of them could not be sent to this committee, I would, of course, be willing to accept his opinion and act upon it, but I think we ought to see those papers. I doubt very much, from what I have heard, that there are other papers that bear materially on this matter. I think we have seen nearly everything, but I do not believe it would be proper for us to go on, leaving the suspicion that we have not gone fully into this case and examined all the papers. I regret the delay very much, and I think it might have been avoided if we had known before the contents of the Secretary's letter. I am not blaming anybody for that. I blame myself as much as anybody else, but I think we ought to have access to all the papers so that we, as well as the Secretary of State, and the Attorney General, can draw our conclusions as to our duty in the matter. We are not bound by their opinions in matters of this kind. That is the way I feel about it.

Mr. GERNEED. Mr. Chairman, I heartily concur with Mr. McLaughlin. I have looked into this matter carefully and I am in favor of reporting this bill out, but I do not want to vote in favor of reporting out this matter under a cloud or under any possible suspicion that there may be additional evidence, and therefore I make the motion—

Mr. TEN EYCK. Before doing that, can we not hear what the Secretary of State has said. I have not heard his reply to our letter.

Mr. WARD. It was read into the record.

Mr. McLAUGHLIN of Michigan. He simply says that the case has been clearly set forth. Now, that is his opinion and a conclusion which he draws from the papers. We might draw a different conclusion from those papers. It is our duty to see them and draw our own conclusions.

Mr. TEN EYCK. Mr. Chairman, can we not have the letter read. There are some other gentlemen here who have not heard it.

(The clerk read the letter referred to, as follows:)

THE SECRETARY OF STATE,
Washington, June 27, 1921.

MY DEAR MR. HAUGEN: I am in receipt of your letter of June 9 referring to H. J. Res. 78, in which you request that you be furnished with copies of all correspondence in the department relating to the transactions referred to in this joint resolution for the information of the Committee on Agriculture.

It appears that the connection of the Department of State with the transaction undertaken by the American Trading Co. at the instance of the Department of Justice, was set forth very clearly to the Committee on Agriculture at the last session of Congress, when the resolution was passed by the Senate. Inasmuch as there has been no further correspondence between this Government and the Argentine Government regarding this question since that date, it is my belief that the documents submitted by the Department of Justice to the committee during the last session contain all the evidence at the disposal of the Department of State.

I am, my dear Mr. Haugen,
Sincerely, yours,

CHARLES E. HUGHES.

HON. GILBERT N. HAUGEN,
House of Representatives.

MR. WARD. What makes you think there is more evidence?

MR. McLAUGHLIN of Michigan. I do not know whether there is or not.

MR. JONES. In that connection, I want to read a little excerpt from the testimony when this question came up. I asked Mr. Wiley this question:

"MR. JONES. I wish you would get a copy of the brief filed by Mr. Franklin in this matter and look it over, particularly copies of instructions, and see if you received any other instructions that are embodied in this brief, whether there as any that pertained to this matter.

"MR. WILEY. I think there is comparatively little here. There is a great deal more, many reports and many other cables. That is something that I cannot furnish. If you want that the committee should formally ask the State Department to give you copies.

"MR. JONES. You can not furnish us with copies?

"MR. WILEY. No.

"MR. JONES. That is all.

"MR. TINCER. For the record, you say there are many communications between the State Department and yourself?

"MR. WILEY. And the embassy.

"MR. TINCER. With reference to this matter not in this brief?

"MR. WILEY. There is a very voluminous correspondence.

"MR. TINCER. I have always thought that. I want to ask you now to produce all that correspondence.

"MR. WILEY. You will have to ask the Secretary of State formally.

* * * * *
"MR. JONES. Did you have any cables or instructions that have not been furnished to the committee either at this hearing or at the other hearing?

"MR. WILEY. I do not know what you have got.

"MR. JONES. Could you furnish any additional ones that have not been furnished?

"MR. WILEY. If there is anything further that you want from the department, I think the department will be very glad to furnish it if you make a formal request."

Then Mr. Tincher said: "I move, Mr. Chairman, that we request the entire correspondence be furnished to this committee for examination."

MR. WARD. And they have replied that they have no more evidence that could possibly bear on the case.

MR. JONES. But here is a man who had a part in the transaction and he says that "there is a great deal more."

MR. WARD. That does not mean there is any more evidence.

MR. CLARKE. This letter from the Department of State was read at the last meeting of the committee.

MR. ASWELL. May I ask Mr. Franklin if there is any more evidence?

MR. FRANKLIN. Mr. Aswell, I do not know. I have never seen the files myself.

Mr. ASWELL. But you know what transpired?

Mr. FRANKLIN. I know there is more evidence other than what was put before this committee, but I do not believe, as far as my knowledge is concerned, there is any more evidence in that file that has any direct bearing on this case.

Mr. CLARKE. Was it not suggested that part of that correspondence was diplomatic correspondence conducted during the time of the war and that there was some reason for withholding it?

Mr. JACOWAY. Mr. Chairman, following the testimony on page 69, as read by Mr. Jones, and in response to the inquiry just asked by Mr. Clarke, I would like for the balance of the testimony relative to that point to go into the record, as follows:

"Mr. ASWELL. I think that request should be directed to the Secretary of State.

"Mr. TINCHER. I am directing it to him.

"Mr. GERNERD. Oh, no, Mr. Tincher; you can not do that. That would not be right.

"Mr. TINCHER. I think we ought to examine the whole record. Somebody at some time, has picked out such parts of this record as they wanted to put in a brief, and I think we should ask for the entire record.

"Mr. WILEY. Part of that correspondence is very confidential.

"Mr. McLAUGHLIN of Nebraska. I move that the committee ask the Secretary of State to furnish the committee with copies of all the correspondence that passed relative to this transaction.

"Mr. SINCLAIR. I second that motion.

"Mr. ASWELL. Mr. Chairman, I move to amend the motion by inserting 'all the correspondence and reports that will not interfere with diplomatic relations and are not incompatible with the public interest.'

"Mr. TINCHER. I would accept that amendment.

"Mr. McLAUGHLIN of Nebraska. The motion refers to papers relative to this transaction?

"Mr. THOMPSON. Yes; the motion, as I understand it, Dr. Aswell, is qualified, because it refers to all papers relative to this transaction.

"Mr. ASWELL. That is all right.

"Mr. McLAUGHLIN of Nebraska. I am not asking for anything except such matters as are relative to this transaction.

"The CHAIRMAN. Do you withdraw your amendment, Mr. Aswell?

"Mr. ASWELL. Yes.

"(The motion, having been duly seconded, prevailed.)

"Mr. WILEY. Is there anything else, Mr. Chairman?

"The CHAIRMAN. There appear to be no further questions. We are very much obliged to you, sir."

Mr. ASWELL. Are you now going to write a letter to the Secretary of State saying that you do not believe what he has said before?

Mr. TINCHER. Oh, no; there is no use injecting bad faith into this matter, but here is the proposition: If I was employed as a lawyer to try a lawsuit and was to get \$5 for it, and I knew there were certain papers in a file, if I took some other man's judgment as to what those papers would prove, my client would have a right to kick me out.

Mr. GERNERD. That is right.

Mr. TINCHER. I am here representing 300,000 people in Congress, and their money is going to help pay this claim just as much as the money of any other section of the country, because they were paying 30 cents a pound at that time for sugar, and I want to know how I can justify not getting all the facts. I am like Mr. McLaughlin, I think probably the files will not prove much, but what possible justification can a member of this committee offer for not going into the facts before he reports out a bill?

Mr. WARD. Do you believe that this letter of the State Department does not comply with the request made by the committee?

Mr. TINCHER. Certainly; it does not pretend to comply with it. Let me suggest this: Who wrote the letter from the Secretary of State's office?

Mr. CLARKE. Charles E. Hughes's name is signed to it.

Mr. TINCHER. It is a safe assumption that Mr. Hughes did not write it. We all know that.

Mr. CLARKE. It is also a safe assumption that he does not sign any letter he does not read, and read carefully.

Mr. TINCHER. Mr. Wiley may have prepared it.

Mr. WARD. Mr. Wiley was not in the department when that letter was written. Mr. TINCHER. He was when he gave his testimony.

Mr. WARD. No; he was not.

Mr. JONES. He said so at the hearings. Here is the question that was asked him:

"Mr. TINCHER. You say you are with the Department of State now?

"Mr. WILEY. Yes, sir."

Mr. WARD. I thought he was not with the department at that time.

Mr. GERNERD. Would this be out of order, to have the chairman of this committee appoint a committee of three to call upon the Secretary of State and present our situation to him, and if there is any confidential matter, let the Secretary of State show that, and what matters are not confidential and will not interfere with diplomatic relations, let that be submitted to this committee. I think, in all fairness, that ought to be done within the next week.

Mr. WARD. You already have that.

Mr. GERNERD. Mr. Ward, I would not jeopardize a presumably good thing by a little matter of this kind when it is only a question of a week or 10 days. I have gone over this matter, and, personally, I think this bill ought to be reported out, but I think Mr. Tincher's point is well taken, and Mr. Laughlin's point also.

Mr. TEN EYCK. Mr. Gerner, I would like to know whether we are going to take the committee's report on this if we do not take the word of the Secretary of State. Will the committee of three be more responsible than the Secretary of State, who was chosen by the President of the United States and is now conducting one of the greatest international conclaves in the history of the world.

Mr. GERNERD. Here is the point. Mr. Ten Eyck. The fact is that this question has been raised here and I think the Secretary of State ought to know exactly the feeling, and if there is anything with regard to that correspondence that is confidential, then it should not be reported.

Mr. ASWELL. Does anyone know what the Senate did about this? Did they investigate it?

Mr. TINCHER. I do not know. I have been confined to the stuff that has been brought here.

Mr. ASWELL. They passed a resolution.

Mr. TINCHER. The present Secretary of State is not only one of the greatest diplomats in the world, but one of the greatest, if not the greatest, lawyer in the United States. I am a lawyer and I want the respect of the Secretary of State, and I do not want him to think I would be satisfied without going into all the facts. I have not asked for any delay here. I am simply trying to clear up the record. I am ready to cross-examine the witnesses.

Mr. ASWELL. What do you think we ought to do? Make a suggestion.

Mr. TINCHER. We passed the resolution.

Mr. ASWELL. Shall we pass another one?

Mr. TINCHER. I do not think so.

Mr. VOIGT. Why can not the chairman appoint a committee of three and let one or two members of that committee be for this resolution and one or two opposed, and let them go to the Secretary of State's office and look over the correspondence, and if any member of that committee thinks there is any new proof in the files of the Secretary of State's office, let him bring a copy of it before this committee. I think that would be the easiest way out of this difficulty.

Mr. McLAUGHLIN of Michigan. And if there is something that can not be published, we would leave it out of the record.

Mr. TINCHER. To show you how wild we can get about a matter of this kind, it has even been suggested that there was probably some of this correspondence concerning the war when not a bit of it happened for more than a year after the war.

Mr. CLARKE. But there is always certain correspondence of this sort which for diplomatic reasons can not be published.

Mr. GERNERD. Mr. Chairman, I am going to amend Mr. Voigt's motion, and my suggestion is that Mr. McLaughlin of Michigan, Mr. Jacoway, with the chairman, be appointed such a committee to call upon the Secretary of State.

The CHAIRMAN. I would suggest Mr. Tincher and Mr. Ward.

Mr. WARD. I would suggest that there be a committee of three appointed, one favoring the resolution, one opposed to the resolution, and let the chairman

pick the third member, and that committee go to the Secretary of State's office and get this information. If they believe there is any evidence there that we should have they will obtain it, otherwise they can come before the committee with a written statement from the Secretary of State that it was impossible to give us the information.

Mr. McLAUGHLIN of Michigan. I am spoken of as being in favor of this resolution. I am, so far as the testimony which has been produced. If other testimony to another effect is offered here, I may change my mind. I am not bound up on this question. I have never expressed an opinion that would bind me.

Mr. TEN EYCK. I guess every other member of the committee feels the same way. If any testimony comes up showing why we should not favor it, we would vote against it.

Mr. CLARKE. Yes.

Mr. GERNERD. Absolutely.

The CHAIRMAN. My thought was that if we appointed a committee both sides ought to be represented on that committee to investigate and report on the matter.

Mr. CLARKE. Why not appoint the three lawyers over there, Mr. McLaughlin, Mr. Tincher, and Mr. Jacoway, and I make a motion to that effect, and I also think the chairman should be on the committee.

Mr. WARD. My motion was that we appoint a committee of three, one member opposed to the resolution, one in favor of it, and the chairman to name the third member.

Mr. GERNERD. I think the chairman of this committee ought to be a member of the committee.

Mr. WARD. I do not know whether he wants to be or not.

Mr. ASWELL. Why? He is not a lawyer.

Mr. GERNERD. That does not make any difference. I think the chairman of the committee on a matter as important as this ought to be a member.

Mr. TINCER. I can not help but believe that if this matter was presented by the chairman again to the Secretary of State, and if it was suggested to him that we would go into executive session, and if Mr. Hughes had time to give the matter a little thought himself, I am sure he would send the files down here. I am wondering what condition of mind a member of the committee would be in if three of us should go down there and examine the reports and come back here and claim that it proved different things.

Mr. VOIGT. It would be up to the subcommittee to bring the proof here.

Mr. GERNERD. It would be up to them to bring what they found, and not their opinion about it.

Mr. WARD. Either bring the proof here or bring a written statement that we can not have it.

Mr. CLARKE. I do not believe they will want to turn over the complete files to the committee. I believe there are reason why part of that correspondence should not be turned over to the committee.

Mr. TINCER. Mr. Hughes does not suggest in any letter of his, and it has not been suggested by anybody in the State Department, that there is anything in this correspondence of such a delicate, diplomatic nature that it can not be published and I can not conceive of how there could be anything of that kind.

Mr. CLARKE. You do not conceive it, but it is in the evidence, because a representative of the State Department appeared here and said that.

Mr. TEN EYCK. If you went back to the Secretary of State, as you suggest, and he reiterated what he has already stated in this letter which was read just a few moments ago, would the committee then accept his statement as final and be in accord with him?

Mr. WARD. If he would make the statement in a definite way and say he had no more information he could give us, I would take it as final.

Mr. PURNELL. This letter which has been presented from the Secretary of State, in my judgment, is very indefinite, uncertain, and evasive. What its purpose is, I do not know. I do not attempt to speak for him, but I doubt if the Secretary of State has ever heard of these companies. It seems to me the logical thing to do is the thing which has been suggested, that is, appoint a committee of one who is known to be opposed to it and one who is known to be for it, and then let the chairman select another, and have them go to the Secretary of State or such other sources of information as may seem prudent and wise in order to get this information. I do not know what I am going to do on this

question when it comes to final action. I have opposed it, but I have said consistently that if anybody can show me that I am wrong, I do not want to be in the attitude of keeping men out of money that should be paid them who have in good faith entered into a relation with the Government, whether there is a contractual or legal liability, or not, but I want to be sure in my own mind, and I do not know with the evidence we have got now that we have all the information it is possible to get from the State Department. As Mr. McLaughlin stated a while ago, I blame myself just as much as any other member of the committee because we have not secured this information. I am ready to vote on it and to proceed until we get the information. If there is anything further there, it might change the whole aspect of this case.

Mr. JACOWAY. Mr. Chairman, I want to say this: Somebody has defined a trial as a judicial ascertainment of the truth. Paraphrasing that, I would say that a bill that goes upon the statutes may be defined as a congressional ascertainment of the truth. Now, as far as I am concerned, taking this record and holding it up and looking at it from its all four corners drives me unalterably to the conclusion that this bill ought to be reported out by this committee, but since there has been some suggestion here that possibly the record is incomplete and that perchance or perhaps or maybe the testimony that this committee has is not the entire record and not the entire proof, I am going to make a suggestion, out of abundance of caution, that we let a committee be appointed, and if there are any other facts that ought to be brought out before this committee that have not been brought out, if there is anything being held in the background, if there is any additional testimony that can be adduced here, to show that this claim against the Government is not bottomed upon that which is right, moral, and just, then as a member of this committee I would fight this bill as vigorously as I would fight anything I could fight. I do not think we ought to go on the floor of the House with any doubt resting in the mind of a single man on this committee that perhaps something is back that has not been brought out. I want to support the motion made by the gentleman from Pennsylvania that a committee be appointed. Let that committee go down there and examine the record, if they can get at it, and then when we have gotten that record, if the facts adduced by the present Attorney General and if the facts adduced by the former Attorney General, dovetail one with the other, as they seem to do, then I believe that the fair, square, duty of this committee is to report this bill out, because I am about governments like I am about men, if men owe debts they ought to pay them, I care not how onerous it may be upon them or what burden it may place upon them, and if the Federal Government owes this claim, I think the Federal Government should be held to the same high standard of paying its debts that individuals are held to.

Mr. CLARKE. I say, "Amen," to that.

Mr. PURNELL. I second Mr. Ward's motion.

Mr. WARD. I would like to add to that motion that the committee which is appointed report back here one week from to-day, on the 25th of January.

Mr. McLAUGHLIN of Michigan. My idea in having a committee appointed was that it should do this promptly.

Mr. CLARKE. I think it is quite an imposition to keep these men down here day after day who come here from quite a distance.

Mr. ASWELL. I might state that earlier in the session the committee decided not to hold any hearings next week on account of the Farmers' Conference.

Mr. WARD. Then they could report back on the 1st of February.

Mr. PURNELL. Why wait that long? Can we not get this information in a day? Let us get right after this thing. I have some other arrangements, just as the other members have, and I want to take up some other matters.

Mr. WARD. Let us have them report back as quickly as they possibly can, and I would like to add to the motion and have it read in this way:

I move that the chair appoint a committee of three, one opposed to the resolution, one in favor of the resolution, the third member to be picked by the chairman, which committee will proceed to the State Department and get this information and report back to this committee Saturday morning at 10 o'clock.

(The motion, being duly seconded, prevailed.)

The CHAIRMAN. The chair will announce that he has conferred with several members of the committee and appoints as members of this committee Mr. McLaughlin of Michigan, Mr. Tincher, and Mr. Jacoway.

Mr. TINCHER. Mr. Chairman, I would like to ask Mr. Post a few questions.

**STATEMENT OF MR. JAMES H. POST, PARTNER OF B. H. HOWELL,
SON & CO.**

Mr. TINCHER. Mr. Post, your previous testimony is in the record.

Mr. Post. Yes, sir.

Mr. TINCHER. I have some additional questions I want to ask you.

Mr. Post. I will be very glad to answer them, if I can, of course.

Mr. TINCHER. As I understand it, B. H. Howell, Son & Co. is a copartnership?

Mr. Post. Yes, sir.

Mr. TINCHER. Who are the copartners?

Mr. Post. Frederick H. Howell, Thomas A. Howell, and James H. Post.

Mr. TINCHER. You are James H. Post?

Mr. Post. I am James H. Post; yes, sir.

Mr. TINCHER. What other business are you in, Mr. Post, except your connection with B. H. Howell, Son & Co., or were you in at the time of these transactions?

Mr. Post. I am not in any other business except I am a director of quite a number of companies, banks, and other organizations, insurance companies, etc., a great many of them, and I do not believe you would want a list of them.

Mr. TINCHER. Yes; I want, for the benefit of the record, considerable information along that line.

Mr. Post. I will be very glad to furnish it, if I can.

Mr. TINCHER. Do you know the Cuban-American Sugar Co.?

Mr. Post. Yes, sir; I have been one of the officers of it for 20 years.

Mr. TINCHER. What business is the Cuban-American Sugar Co. engaged in?

Mr. Post. They produce raw sugar in Cuba. They have six estates in Cuba.

Mr. TINCHER. And you are one of the officers in that company?

Mr. Post. Yes, sir.

Mr. TINCHER. And you own six estates down there and produce sugar in Cuba?

Mr. Post. Yes, sir.

Mr. TINCHER. And that condition of affairs existed at the time of this whole transaction?

Mr. Post. Yes, sir.

Mr. TINCHER. Is Thomas A. Howell the vice president of that company?

Mr. Post. Yes; he is.

Mr. TINCHER. You are the president, are you not?

Mr. Post. I am; just temporarily, because the president, Mr. R. B. Hawley, died about two weeks ago, and they had to fill the position temporarily. I have never been president before. Mr. Hawley organized the company and died very suddenly in New York about two weeks ago.

Mr. TINCHER. That company owns vast estates of land, or has control of vast estates of land, that produce sugar in Cuba?

Mr. Post. Yes, sir; large estates. I would not say "vast."

Mr. TINCHER. And you sell that sugar?

Mr. Post. We sell that as raw sugar to the various refiners here and throughout the world.

Mr. TINCHER. And then there is the National Sugar Refining Co., of New Jersey, with offices at New York. Who is the president of that company?

Mr. Post. I am.

Mr. TINCHER. And Mr. Howell, of your copartnership, is he connected with it?

Mr. Post. Yes; he is one of the members of the copartnership.

Mr. TINCHER. That is this little company that has this claim here. He is a director and vice president also of the National Sugar Refining Co., of New Jersey, is he not?

Mr. Post. Yes, sir; I think he is.

Mr. TINCHER. The Cupey Sugar Co.; where is that company; do you know?

Mr. Post. That is a small estate in Cuba, owned by another group of men.

Mr. TINCHER. Thomas A. Howell is treasurer of that company?

Mr. Post. I am not sure just what office he holds. I am not an officer of it. I do not remember.

Mr. TINCHER. Howell is interested in your partnership?

Mr. Post. Yes.

Mr. TINCHER. And the Colonial Sugar Co.; where is that?

Mr. POST. That is a company that owns the Constantina sugar estate in Cuba and a refinery in Louisiana.

Mr. TINCHER. Who is the president of it?

Mr. POST. Mr. John Farr, I think, is president.

Mr. TINCHER. Who is the vice president and treasurer?

Mr. POST. I think I am, sir.

Mr. TINCHER. As I understand it, B. H. Howell, Son & Co., of which you and Howell and Howell are the owners—

Mr. POST. No; we are not the owners of these sugar companies. We are the officers. We have a small interest.

Mr. TINCHER. I mean the B. H. Howell, Son & Co. You own that little company.

Mr. POST. Yes, sir. It is not a company; it is a partnership.

Mr. TINCHER. And you went into this business with the Government to just raise hell with these other companies, of which you are president and vice president, and to reduce the price of sugar.

Mr. POST. No; that was not our purpose. We went into it at the request of the Government to distribute this sugar.

Mr. TINCHER. Now, I want to call your attention to the fact, Mr. Post, that through a lack of information on the part of this committee, this bill was reported on the floor of the House favorably and was passed in the Senate, and was about to be considered and voted upon in the House, with no intimation, as the record will bear me out, and with no direct statement that B. H. Howell, Son & Co. were interested in the sugar business, but that you went into this as a pure side line for patriotic reasons.

Mr. POST. I think, gentlemen, you must be mistaken about that. I tried to be very frank in my statements.

Mr. TINCHER. But you were not asked these questions I am asking you this morning, and you did not state any of these connections with other companies.

Mr. JACOWAY. I beg your pardon, Mr. Tincher, but let the witness finish before you ask another question. You do not give him an opportunity to complete his answers to your questions.

Mr. TINCHER. I beg your pardon. Now, I want to ask a question or two about Howard Figg, who was formerly connected with the Department of Justice.

Mr. POST. Yes, sir.

Mr. TINCHER. We had some trouble getting him back here to testify, but he finally came back here. He is the man who negotiated this deal with your company for the Department of Justice.

Mr. POST. He was the medium through which it came to us.

Mr. TINCHER. And then he quit the Department of Justice; but his testimony is the principal testimony in the record connecting the Government in any way with these claims. Where did he go when he quit the Government?

Mr. POST. I do not know.

Mr. TINCHER. He resigned on November 15, 1920, and upon leaving the Department of Justice he entered the service of the Cuban-American Sugar Co. of New York.

Mr. POST. Oh, no. He never was connected with the Cuban-American Sugar Co. in any way.

Mr. TINCHER. Did he work for the Underwood Typewriter Co. of New York?

Mr. POST. I do not know. I am not active in the Underwood Typewriter Co.

Mr. TINCHER. You are an officer in it, are you not?

Mr. POST. Mr. Underwood was a personal friend of mine, and two years ago he asked me to go on the board. I had no interest in it. I have 25 shares of stock and he asked me to go on the board of directors, which I declined to do, but they elected me and I have since resigned. My resignation has not been accepted yet, but I have no interest in it except you know how friends sometimes ask you to go on a board, and this was just because I have known him a great many years.

Mr. TINCHER. Of course, a Congressman is often handed information that he can not always rely upon, but my information concerning your connection with the other companies seems to be agreed to by you, and my information was that Figg, upon leaving the Department of Justice, entered the services of the Cuban-American Sugar Co., of New York, of which you were vice president; that he left the Cuban-American Sugar Co. and went with the Underwood Typewriter Co., of New York, in which you are a director, and that he was still with those companies when he was here before this committee.

Mr. POST. I am sure that is not so.

Mr. TINCHER. I do not know; it may be entirely inaccurate.

Mr. CLARKE. He has just testified that he has had no connection with the sugar company and the gentleman testifying has only been a director in the Underwood Typewriter Co. for two years at the request of a personal friend.

Mr. ASWELL. And has resigned that position.

Mr. POST. I don't guess it has been accepted yet because they are trying to keep me.

Mr. TINCHER. I am not in position to know—

Mr. POST (interposing). I would very frankly tell you, if it were so, but I am sure he has no connection with any sugar company that I know of.

Mr. TINCHER. I would like to know at what price the Cuban-American Sugar Co. sold your raw sugar for in 1919.

Mr. POST. Was that one of the years when the Government bought it?

Mr. TINCHER. No; that was a year after the Government bought it.

Mr. POST. I do not know. It varied with the market from time to time. I am not familiar with the details of it.

Mr. TINCHER. As a matter of fact, the price was very good that year, was it not?

Mr. POST. Part of it was, and part of it was very bad, because there was a great difference in the price between certain seasons of that year. Some of it got very high and some of it got very low. I do not know what the average was.

Mr. TINCHER. As to the producers of sugar in Cuba, are there any larger producers of sugar than the Cuban-American Sugar Co. in Cuba?

Mr. POST. Yes, sir; there are quite a number. They have the largest single estate there called the Chatarra Sugar Estate. That is the largest one there, but they have several small ones, too.

Mr. TINCHER. That is the largest individual sugar-producing estate?

Mr. POST. I think it is.

Mr. TINCHER. In Cuba and probably in the world, is it not?

Mr. POST. I do not know about the world. It is the largest in Cuba.

Mr. TINCHER. And Mr. Thomas A. Howell is of sufficient importance in that company to be the vice president of it?

Mr. POST. Yes, sir.

Mr. TINCHER. And you are at present the president of it?

Mr. POST. I have been for two weeks, but that is just temporary. I wish you would understand the circumstances about that. You probably know Mr. Hawley very well. He was in Congress here some years ago from Texas. He has been the managing director and president of that company for 20 years.

Mr. KINCHELOE. Was this Cuban sugar company and these companies that Mr. Tincher has mentioned, with which you are identified in Cuba, bringing sugar here at the time this Argentine sugar came in, and was that sugar sold in competition with it?

Mr. POST. I have no doubt sugar arrived all through that period just as fast as they could sell it and ship it. That has been the custom for a great many years.

Mr. ASWELL. Did the Argentine sugar reduce the price of that Cuban sugar?

Mr. POST. It had the effect of reducing the prices of all sugar, because it was a time when it was very high—25 or 26 or 27 cents—and this was offered at a great deal less, and it did have an effect through the newspapers and in other ways, much more than you would think 13,000 tons would have, because this country uses about 100,000 tons a week.

Mr. KINCHELOE. The point I am making is this: The sugar from Cuba from the concern in which you are interested was shipped here during the time this Argentine sugar was being sold, and was sold in direct competition with it.

Mr. POST. Yes, sir; sold by that company.

Mr. KINCHELOE. And therefore, if the Argentine sugar was brought here to break the market, it hurt your holdings in these sugar refineries in Cuba.

Mr. POST. Yes, sir; it did.

Mr. KINCHELOE. To that extent.

Mr. POST. Yes, sir.

Mr. TEN EYCK. Will you kindly tell us what benefit your other companies derived from the shipments of this Argentine sugar?

Mr. POST. Of course, you recognize that we do not own the other companies. We just have a small interest in them, and have been connected with them.

The effect of this Argentine sugar was to break the price for all sugar-producing companies.

Mr. TEN EYCK. Then, your companies did not receive any benefit?

Mr. POST. No; they certainly did not receive any benefit.

Mr. JONES. The market really broke before the Argentine sugar arrived, did it not?

Mr. POST. Yes; it started to break, and the fact it was coming had that effect, somewhat.

Mr. JACOWAY. Let me ask you one question right there, because I think that is the crux of this situation: Did the activities of Howell & Co., in your judgment, break the high sugar market?

Mr. POST. I think the importing of this Argentine sugar and the fact that the Government was doing it—

Mr. JACOWAY (interposing). And the fact that they knew it was coming in.

Mr. POST (continuing). And the fact they knew it was coming in, and they expected a great deal more to come in, had the effect of breaking the market for sugar in this country.

Mr. JACOWAY. Then, in your judgment, that was the compelling reason?

Mr. POST. The things that led up to that had more effect than anything else in breaking the sugar market.

Mr. JACOWAY. And it broke from what price to what price?

Mr. POST. It kept going down very rapidly.

Mr. JACOWAY. What was the peak?

Mr. POST. I suppose the highest refiners' price was 23 cents or perhaps up to 26½ cents—it varied in different parts of the country—and it has continued to go down ever since until now it is 2 cents, practically.

Mr. TINCER. Now, Mr. Post, let us understand this thing thoroughly. This bill passed the Senate twice, and there have been two sets of hearings before the Senate committee. The bill has been reported out of this committee once, and not until this morning has there ever appeared in any record your connection with the Cuban-American Sugar Co.

Mr. POST. I am sure it was entirely unintentional. I answered the questions and did not try to hold back anything.

Mr. TINCER. Let me call your attention to the way that looks to just a country lawyer. The price of sugar, as Mr. Palmer very properly told us, had mounted until sugar was retailing at 30 cents a pound. The Government was interested in breaking the price of sugar. They wanted to get people who had no connection with sugar transactions and were not interested in sugar at all, so they got B. H. Howell, Son & Co., who were not handling sugar. This was their only sugar transaction. They selected them. Now, let us see who they are. We are looking for a man to break the price of sugar. They picked B. H. Howell, Son & Co. as a governmental agency to break the price. Who is B. H. Howell, Son & Co.? It is a copartnership. Who are the men who own it? They own the biggest sugar-producing farms in the world down in Cuba and the biggest individual sugar-producing plantation in Cuba, and they are the officers in that company. I have always thought—may be you can explain this—that that would be parallel to a judge opening court and calling in the men charged with burglary or larceny or some other crime and saying, "I will appoint you to try one another." It has always seemed to me a rather remarkable coincidence, the connection that these people had with these other companies, since I have learned of it. There may be no foundation for it, but what possible excuse could there be, if they were going to import sugar from the Argentine, using people who would be more directly damaged by breaking the price of sugar than anyone else?

Mr. ASWELL. May I ask Mr. Post a question right here. It seems to me from the questions of Mr. Tincher and the responses by Mr. Post that he is some considerable sized business man. Now, the Government wanted something done and selected a man whom the officers thought was able to do it. They called on him because of his big business experience. I do not see any objection to that. I do not think that criticism is well founded at all, and may I ask another question? I want to ask Mr. Post, if I may, a question or two. Your interest in these larger companies in Cuba is clear and you have stated it frankly.

Mr. POST. It is very small, though. I would like to have that understood.

Mr. ASWELL. Now, what induced you to import this Argentine sugar in competition with your own business and in competition with friends of yours? Was it the war, or just what was it?

Mr. TINCHER. The war was over.

Mr. ASWELL. I know the war was over, but the spirit of it remained.

Mr. POST. May I explain a little bit my relation to it?

Mr. GERNERD. Let us have your answer to that question, Mr. Post.

Mr. POST. During the war, under the department, the refiners of the country were allotted sugar by the Government, and I was chairman of the committee of all the sugar refiners of the country in distributing this sugar. As you know, it was sold at a very low price and at a very close margin of profit. During the war I was also chairman of the committee to keep the Army and Navy supplied with sugar, and I gave a great deal of time to that. Sugar was scarce, and they appointed a committee here in the department of defense, and I was made chairman of that committee, and I devoted practically all my time to Government work during the war.

They picked out our firm to distribute this sugar. We did not know of it until it had been all arranged with the American Trading Co. We are very large distributors of sugar, refined sugar—recognized as probably the largest distributors of refined sugar in this country. We do not own any sugar; we are commission merchants entirely. We never own any sugar ourselves. We represented the National Sugar Refining Co. in selling the refined sugar. They came to us, and our firm decided we did not want to do it. They urged us to do it as a patriotic duty, and we did it, as the records show.

Now, I want to be frank, and I would like, if I may, to correct one statement that perhaps I had not been clear about. We do not own the raw sugar companies in Cuba. Our partners have some stock interest in it, and I have been active in it with Mr. Hawley and the other partners for a good many years. It started in a very small way, and has grown to a very large producing company.

We twice refused to go into this against our interest. The records and our correspondence with the department, which has been placed on file here, show that we did it only from a sense of duty and after being requested to do so by the Government, which we were all very loyally trying to serve.

Mr. RIDDICK. Let me ask you a question right there. Do I understand that some of your companies were selling sugar at the high profiteering prices, and at the same time your other companies sought to break the market and expected to make a good profit out of the transaction, and then when you did not make a profit you come in here and ask the Government to take care of your losses? Is not that the case?

Mr. POST. We were distributing sugar at that time at about 21 cents. This sugar was bought particularly for canners and preservers. A committee of the canners came to New York and urged us to help them get this sugar to keep their canneries going. It did have the effect of breaking the price, but we were all very willing to have the price lowered for sugar.

Mr. RIDDICK. Were not your other companies selling sugar at the high prevailing prices?

Mr. POST. They were selling raw sugar at the market price, whatever it was, yes. And they were selling refined sugar at the market price, which was considerably lower than could have been secured for it.

Mr. RIDDICK. Then the fact is simply that your companies were selling sugar at profiteering prices, and at the same time you sought to break the market and expected to make a good profit out of that transaction?

Mr. POST. In the refined sugar business there was no profit at times, because the record shows millions of dollars were lost by all the companies in that year, 1919.

Mr. RIDDICK. But at this particular time prices were extremely high?

Mr. POST. Oh, at that time the refiners were paying very high prices for raw sugar, bringing a great deal of it in from Java and anywhere else that they could get it, and their margin of profit was very small.

Mr. RIDDICK. But I understand that some of you people were connected with the production of sugar. They were getting tremendous prices, were they not?

Mr. POST. Only for a little of it, because most of the crop had been sold.

Mr. RIDDICK. But they were getting high prices for some of it?

Mr. POST. For a part of it; yes. I should say that the average price was around 9 cents.

Mr. KINCHELOE. The war being over in 1919, I can not conceive what actuated you to agree to enter into this arrangement with the Government to buy this

Argentine sugar, the very fact of which, you admit, would have the effect of lowering your profits on the sugar you got from Cuba, unless it was that you expected to make a greater profit out of the Argentine transaction which would compensate for the smaller profits you would get out of your sugar from Cuba.

Mr. POST. Under the agreement with the Government we were to have only 1 cent per pound for the cost of distributing the sugar, so that our profit was limited to a very small amount.

Mr. RIDDICK. Have you any record to show that that arrangement was made?

Mr. POST. Yes; it is on file here.

Mr. JONES. During the period of these negotiations, Mr. Post, a lot of sugar was being shipped in from Cuba, was there not?

Mr. POST. From Cuba, from Java, and from all parts of the world.

Mr. JONES. And this country was using about 100,000 tons a week?

Mr. POST. At that time of the year the consumption would be about that; yes.

Mr. JONES. And you say it was just the bringing in of these 13,000 tons, or a few thousand tons, from Argentina that broke the market rather than these 100,000 tons a week, or something like that, that was being brought in from these other sources—being actually brought in?

Mr. POST. The reason was that they announced that 70,000 tons were coming, and it was just at the peak of the market, almost, when this Argentine matter came up.

Mr. JONES. When we were actually using sugar at the rate of 100,000 tons a week, and it was actually being brought in from all sources, do you think the threat of bringing in two-thirds of a week's supply from some other source had the effect of breaking the market?

Mr. POST. It was an opportune time to do it, because the country began to get fairly well supplied with sugar. This was the immediate thing, I think, that brought it about. Of course, I am only giving you my judgment on it.

Mr. JONES. That just happened to be the straw, though; that would not have done it but for the fact that tremendous quantities were being brought in from these other sources, actually, at that time?

Mr. POST. It was.

Mr. JONES. So, really the main cause was all of this actual sugar that was being brought in?

Mr. CLARKE. And the fact that it was being advertised in the papers that the Government was behind it, and so on.

Mr. JONES. I would like to have the witness's opinion.

Mr. POST. This particular sugar was being offered at a lower price than other sugar was being sold at.

Mr. JONES. Yes; but that would all be licked up in two-thirds of a week?

Mr. POST. Yes; but you can see when you are about at the peak and people commence to hesitate as to whether they want any more, how quickly the market will decline.

Mr. JONES. But the knowledge that all this other sugar was available and could be gotten had much to do with the breaking of the market, did it not?

Mr. POST. Well, it was at higher prices, but it was not known at that time. You may think it strange, but we did not know that this was coming—

Mr. JONES. This sugar from these other sources?

Mr. POST. Yes.

Mr. JONES. And if it had not been actually coming from these other sources, then the threat of bringing in 70,000 tons would not have broken the market, would it?

Mr. POST. The combination of those two things probably would have done it.

Mr. JONES. It was the combination, of course—the combination of actually bringing in all these tremendous supplies from the other sources, together with the additional threat, that caused the break in prices? Is not that true? So that in and of itself the threat of bringing in 70,000 tons, or a portion of the 70,000 tons, was not sufficient to have had any material effect on the market, was it?

Mr. POST. It had more of an effect than it ordinarily would have had, because of the publicity given to it.

Mr. JONES. Yes; but the publicity with reference to 70,000 tons, when the knowledge was general among sugar handlers that we were using 100,000 tons a week—you could publish it from one end of the country to the other and it would not break the market without the additional force of an abundant supply that was just then becoming known?

Mr. POST. That was coming in quite freely at that time; yes.

Mr. JONES. But up to just about that time, or just before, it was not known that there was such a tremendous supply from other sources? Is that true?

Mr. POST. It was not generally known that such a quantity could come from Java.

Mr. JONES. It was not known at that time that these tremendous supplies from other sources were available?

Mr. POST. We did not know, at least, that it would come to this country.

Mr. JONES. So, really, if there had been no Argentine sugar, with these tremendous supplies available from other sources, it would probably have gone down in the course of a few weeks anyway?

Mr. POST. In the course of a few months, as it became known.

Mr. JONES. It would have gone down because of these tremendous supplies from other places, because, like all other things, the price of sugar depends on the law of supply and demand?

Mr. POST. Yes, sir; I think so.

Mr. ASWELL. Did the Government know that?

Mr. POST. No; I think no one knew they were coming here. There were cargoes cleared for Gibraltar and Port Said and other ports, and all at once they commenced to order them to this country because of these high prices here.

Mr. JONES. In fact, the knowledge of that coming just at that time caused sugar to break before any was brought in from the Argentine?

Mr. POST. Within about two months it did.

Mr. JONES. After the Argentine sugar arrived?

Mr. POST. The Argentine sugar was delayed in arriving here, and that made trouble, too.

Mr. JONES. They had the threat of this Argentine sugar coming here, and it became known that there were tremendous supplies available in other places?

Mr. POST. That had something to do with it; yes.

Mr. KINCHELOE. Mr. Post, I want to try to get your viewpoint as a business man, if I can, of this transaction. I am frank to say I do not understand it. Of course the purpose of the purchase of this Argentine sugar to bring to this country was to break the market. That is conceded here. That was the purpose of it, to break the market for the benefit of the consumers of America. You, of course, knew that?

Mr. POST. That was the purpose of it; yes.

Mr. KINCHELOE. Now, with your holdings of sugar in Cuba, and with the war over, eliminating the patriotic end of it, knowing that the purpose of buying this Argentine sugar was to break the market, I can not understand your viewpoint as a business man. I can not understand why you should go into an arrangement of that kind unless you felt that the profits you would get out of the Argentine purchase would yield a greater dividend than you would get from your sugar in Cuba. What was really your purpose in it?

Mr. POST. In the first place, B. H. Howell & Sons Co. never owned any sugar; we are commission merchants.

Mr. KINCHELOE. But the more sugar you handle the more you make?

Mr. POST. We get a commission; yes. We had not got over the feeling of loyalty to the Government that we had in the war, and the feeling that we ought to cooperate in every way we possibly could. That may seem very strange to you, but that was our purpose.

Mr. KINCHELOE. But you knew it was going to hurt your Cuban sugar business?

Mr. POST. We knew it would hurt the Cuban sugar business to some extent; yes.

Mr. KINCHELOE. And of course you expected to get a profit out of the Argentine proposition?

Mr. POST. No; we expected to get only 1 cent per pound, which was to cover our expenses, leaving us perhaps a quarter of a cent a pound.

Mr. KINCHELOE. Would there have been more than you would have gotten out of your Cuban sugar?

Mr. POST. Oh, no.

Mr. JACOWAY. What is that commission?

Mr. POST. The commission is 1 per cent on the sale of sugar. On the Argentine sugar our commission was to be 1 cent a pound.

Mr. TINCER. Now, Mr. Post, I have several other questions I want to ask you. First, I want to go back to Cuba again. Your company has raised some sugar down there. What do you do with that sugar?

Mr. POST. It is shipped to this country and to other parts of the world to be refined.

Mr. TINCER. Do you sell any to the National Refining Co. of New Jersey?

Mr. POST. Sometimes they buy it.

Mr. TINCER. Then they refine it?

Mr. POST. They refine it; yes, sir.

Mr. TINCER. And when the National Refining Co. of New Jersey gets through refining it they pay B. H. Howell & Co. a commission for distributing it?

Mr. POST. Yes, sir.

Mr. TINCER. That is, they raise the sugar, one company, and refine the sugar in New Jersey, another company, and distribute the sugar in New York through a copartnership?

Mr. POST. May I explain; there are probably 4,000 stockholders in the Cuban-American Sugar Co. and about 3,000 in the National Refining Co. They are not the same people; they are scattered very largely.

Mr. TINCER. It is just a coincidence that the officers of the three companies happen to be the same?

Mr. POST. Yes. I have been in the business 40 years, and I have been active in developing sugar companies in Cuba and in this country.

Mr. TINCER. Now, this sugar crop of 1919 went on the market in December, 1919?

Mr. POST. Yes, sir.

Mr. TINCER. No; it was after the 1920 election. When did this transaction occur?

Mr. REED. The transaction was in May, 1920.

Mr. TINCER. Now, when this transaction commenced in the ordinary course of business the Cuban-American Sugar Co. would no doubt have disposed of most of their sugar for that year?

Mr. POST. Not necessarily most of it; they would have disposed of part of it. I do not know the facts myself as to that.

Mr. TINCER. I thought you said they had cleaned up by May?

Mr. POST. They finished their crop making; but they do not sell their sugar until through the month of July.

Mr. TINCER. Now, will you please tell us in the record the number of pounds, or the quantity, of sugar produced by the Cuban-American Sugar Co. that year, when they disposed of it, and to whom?

Mr. POST. Yes; I will try to secure that information for you and send it.

Mr. TINCER. Being president of the company, I have no doubt you can get the information. If you can not, probably Vice President Howell can.

Now, this Argentine sugar that we are talking about was bought in the Argentine at around 13 cents a pound, was it not?

Mr. POST. I am not sure as to that. The facts are all in the record here.

Mr. REED. It was bought at from 13 to 14 cents.

Mr. TINCER. Do you know the ship rate from Argentine to our ports.

Mr. POST. Yes; we have it at our office, of course. I haven't it here with me.

Mr. TINCER. I suppose I should ask this other gentleman [Mr. Franklin] about that; I want to go into some detail on those questions.

Now, you say that the New Niquero Sugar Co. is a Cuban company?

Mr. POST. That is in Cuba, too; a small estate near Manzanillo.

Mr. TINCER. Now, do you remember whether at that time you had sold your raw sugar or not?

Mr. POST. I do not know. There are other officers who attend to that.

Mr. TINCER. Will you tell us in the record the amount of sugar produced by that company for 1919, when it was sold, and the price at which it was sold?

Mr. POST. Yes, sir.

Mr. TINCER. And the Colonial Sugar Co.?

Mr. POST. That is a part of the Cuban-American Sugar Co.

Mr. TINCER. And the Cupey Sugar Co.?

Mr. POST. I will put all the companies in that we represent.

Mr. TINCER. Now, Mr. Post, when you were before this committee before I remember asking you if there were any other matters connected with this transaction at all that you thought the committee ought to have the benefit of.

Mr. POST. I am very sure I would have answered it if I knew of it.

Mr. TINCER. Do you mean to say to this committee, Mr. Post, that your connection and the connection of these several companies, and the fact that not

only were B. H. Howell & Sons distributors for a small commission, but you as an officer in that company were interested to the extent you are in the production of sugar—it would not have been material for the committee to have had that?

Mr. POST. No. It apparently did not occur to me and does not occur to me now, what bearing that had upon that particular matter.

Mr. TINCER. Do you think that the Senators that voted upon this bill were not necessarily entitled—

Mr. CLARKE. Oh, Mr. Tincher, I object to his drawing comparisons between the Senate and the House. You have no right to ask any witness to draw a comparison between the Senate and the House.

Mr. TINCER. I would not ask any witness to draw such a comparison.

Mr. CLARKE. But that is what you are doing. Don't go into any comparisons without a vote of the committee, please.

Mr. TINCER. I will submit my questions in writing before asking them, shall I?

Mr. CLARKE. I would like to have some of them; I think it would help.

Mr. TINCER. I am candid to say to the gentleman from New York that until this morning I had nothing but a rumor and what little information I was able to dig out about these connections which Mr. Post very candidly acknowledges. Did you know about them before?

Mr. CLARKE. You are examining the witness here. Address your conversation to him.

Mr. TINCER. Then let me examine him.

Mr. CLARKE. Go ahead in a fair and square way, and I am with you.

Mr. TINCER. I submit, Mr. Chairman, if I am unfair in the examination of the witness I want the unfairness pointed out.

Mr. CLARKE. That is what I am trying to do.

Mr. TINCER. Mr. Post, as a business man, don't you think that a man before he votes on this bill is entitled to the information I have got from you here this morning concerning these other companies?

Mr. POST. I am sorry I can not agree with you, but I can not see what that particular matter has to do with it. I would very frankly tell you if I did. Everybody has information that we are very large sugar merchants for the account of other people. There has been no secret about it. During all the war I was one of those who worked for the Government on the sugar problem, and we did our work well.

Mr. ASWELL. Is that the reason the Government selected you?

Mr. POST. The Government secured sugar for this country at very low prices during those two years, at a very small margin of profit to the producer. It was sold the first year at 4½ cents and the next year at 5½ cents. I think the year of this panic they offered to sell at 6 cents. It is on record here in our Government that they offered to sell the crop of 1919-20, I think it was, at 6 cents per pound, and the Government declined to buy it.

At that time the crop was short in Cuba, it was short in other parts of the world, and the high prices brought sugar from all these other places—Java, India, and all over the world—and that overstocked this country in the fall of that year. When this particular sugar was bought—in April and May—it was very scarce, but in September, October, and November, when this other sugar commenced to arrive, it commenced to drop.

Mr. TINCER. We sold some sugar that year in France, didn't we?

Mr. POST. Yes. The first contract was with the English and French Governments. I was chairman of the committee that helped to arrange it. The second year they did the same thing. The third year they tried to do it and our Government said, "No"—it is a matter of record—"let it take its course."

Mr. JACOWAY. I do not know whether this is germane or not, but I do know that a number of concerns lost money—thousands of dollars. Do you know what the effect on the market was of the finding of many thousands of tons of Mexican cube sugar?

Mr. POST. No; I do not. There could not have been a great deal of that, but it came from every part of the world.

Mr. JACOWAY. There was a great deal of it came here. It came out of Mexico, and nobody knew of it before. It was a source they had no idea of. The question I wanted to ask was whether it was thrown on the market about the same time.

Mr. POST. Yes; nearly all of it got here within two or three months of the same time.

Mr. JONES. And those are the things that broke the market?

Mr. POST. They helped to do it; yes, sir.

Mr. TINCHEK. The National Sugar Refining Co. of New Jersey—how much sugar do they refine per annum?

Mr. POST. They refine about 12,000 tons per week when they are running full capacity.

Mr. TINCHEK. So the sugar you were bringing in from Argentina would have taken them about a week to refine?

Mr. POST. Yes. In this country we are only very small sugar refiners. This Argentine sugar was refined.

Mr. CHAIRMAN, may I ask the permission of the committee to place in the record this letter which we wrote in October, 1920? It is already in evidence.

THE CHAIRMAN. Without objection, it will be inserted in the record.

(The letter submitted by Mr. Post is here printed in full, as follows:)

OCTOBER 7, 1920.

Hon. HOWARD FIGG,

Assistant Attorney General, Department of Justice.

Washington, D. C.

DEAR SIR: We desire to submit the following brief memorandum concerning the purchase of 13,900 tons of Argentine granulated sugar at the request of the Department of Justice for the purpose of distribution to canners, preservers, and consumers at the direction of that department. We entered into this business reluctantly, as you know, and at the special solicitation of the Department of Justice, because we wished to cooperate in the endeavors of the Government to increase the supplies of imported sugars and to secure an equitable disposition thereof. It has never been the custom of our firm to engage in the importation of foreign white sugars, as such course is largely opposed to our interests. While our activities under the direction of the Department of Justice have been conducive to the present decline in the price of sugar, with the resultant benefit to the consumer, unless equitable relief is afforded us our endeavors to cooperate with the Government in this matter will involve our firm in a heavy financial loss. We would, therefore, submit briefly the following facts:

The sugars were not purchased by us but by the American Trading Co., the American Trading Co. being informed by the Department of Justice that arrangements would be made for the distribution of these sugars by a representative American house. Our first knowledge of the matter was when a representative of the Department of Justice called upon our Mr. Post and solicited help in the distribution of these sugars.

We hesitated to go into this matter, which was quite foreign to our policy and the usual course of our business, but finally agreed to do so in order to assist the department in its efforts to relieve the shortage of sugar. Thereafter, at an interview with a representative of the American Trading Co., on May 14, 1920, it was agreed that our firm should go joint account with the American Trading Co. in the purchase of these sugars, at the request of the Department of Justice and subject to their orders and directions as to distribution. We were informed at this time that it was the intention of the Department of Justice to secure, through the Department of State by the ambassador at Buenos Aires, a permit for the exportation of 30,000 tons of granulated sugar from the Argentine, and it was contemplated that this amount would be purchased under the joint arrangement above set forth.

The American Trading Co. had opened a credit at Buenos Aires for this transaction in the sum of \$7,500,000, and we supplemented this by opening a credit at this time for \$6,000,000, or a total credit was established for the purchase of these sugars of \$13,500,000. All of the sugars were to be purchased in the name of the American Trading Co.

One week after our agreement to undertake this business a decree of the President of the Argentine Republic was published, under date of May 22, 1920, permitting the exportation of 100,000 tons of sugar, but placing restrictive conditions upon the same, which made it impracticable to export the sugar as contemplated, and in view of this, having already purchased 13,900 tons, no further purchases were made. The Department of Justice thereupon took the matter up with the Department of State to secure a modification of this decree so as to permit the exportation of the sugar already purchased. These negotiations continued until June 14, and up to that time no distribution of sugars

could be made by us as we had no certainty that the sugars would be exported. The permit for such exportation was not actually delivered until June 26.

The Department of Justice thereupon authorized us to offer these sugars to canners and preservers of fruits and vegetables, and in accordance with its directions the sugar was offered to this trade upon the basis of the price approved by the Department of Justice. In this entire matter all of the terms of the offering of these sugars were approved by the Department of Justice, the price being fixed by it at cost delivered in New York, plus 1 cent to cover expenses and compensation for distribution and 1 cent to cover expenses and compensation for purchase. The cost was necessarily subject to certain estimates and the trade was informed in each case that if the cost proved less, a proportional credit would be made to the purchaser. A very small quantity of the sugar so offered was taken by the canners and preservers, largely owing to the fact that, in the meantime, through the efforts of the Department of Justice, arrangements had been made with the refiners to supply the requirements of the trade during the entire canning season.

On June 29, at a conference at our office, the Department of Justice advised us that it would approve a plan of offering these sugars to the jobbing trade under a plan of allotment then outlined by the department, and in accordance with the terms then suggested, of a circular letter and contract. It was our judgment at that time that the condition of the sugar market warranted the free and unrestricted offering of these sugars to the trade in general, but since we regarded ourselves simply as servants of the Government in this matter, acting entirely under its directions and orders, we complied with its requirements. Therefore, at once, in accordance with said suggestions, we drew the form of letter and contract, together with a list of jobbers throughout the country, and the amounts to be allotted to each jobber to whom such letters were to be sent, and forwarded the same to the Department of Justice at Washington for its approval. We received a letter from the department under date of June 30 approving the form of letter and contract and the list of jobbers and quantities allotted, making, however, certain additions and amendments to the letter and form of contract. On July 2 the letter and form of contract incorporating the amendments suggested were sent to the jobbers as per the approved list. Copies of that letter and contract are hereto annexed. Only 19 out of the total list of about 72 jobbers accepted the allotments, leaving approximately 9,000 tons of sugar unsold and on hand. It was not obligatory on the part of the jobbers to accept this allotment, as the letter (a copy of which is annexed hereto) plainly states.

Because of the facts set forth, our firm has been involved in a very heavy financial loss, from which, it seems to us, every requirement of justice calls for relief by the Government, whose activities we endeavored to serve, for the following reasons:

First. The purposes of the Government, through the efficient cooperation of its departments, have been fully accomplished, namely, the increase in the supply of sugar and the reduction in price. The present transaction has been largely conducive to this end, not entirely because of the quantity of sugar involved, but because of the very wide publicity given to this importation through governmental agencies.

The benefit to the consumer has been out of all proportion to the loss involved, but it would be repugnant to all sense of justice that this loss should fall on two commercial houses solely because they had given their facilities to the Government for this social purpose.

Second. This business was undertaken in view of the statements of the Department of Justice that assurances had been given by the Argentine Government to the American Government that these sugars could be exported. They were therefore "prompt" sugars, in the purchase of which little risk could be involved. It was not our intention, nor that of the department, that we should be placed in the position of speculating in long-term sugars without hope of profit—save what amounts to a nominal commission fixed by the department—and without warranty against loss. But the decree of the President of the Argentine Republic coupled the permission of export with the condition that a special type of sugar, known as "Pilet" sugar, should be deposited with the minister of hacienda in an amount equivalent to 30 per cent of the sugar exported. As we had no means of obtaining such sugar, the condition made the export of the purchased sugar impracticable. The injustice of this condition, in view of the assurances that had been given by the Argentine Government, was apparent, and the State Department secured a modification of this decree; but the unavoidable delay occasioned by this unexpected difficulty resulted in our

being unable to offer these sugars as planned, and the total amount had to be offered to the trade at one time, more than two months after they had been purchased. We submit that this loss should not be left to rest upon our firm, who have acted entirely in a ministerial capacity to serve the requirements and purposes of the Government in this matter.

Third. Our house neither sought the business nor acted in its own initiative or judgment in the entire matter. It was acting solely and passively as the servant of the governmental departments in the whole transaction. It was therefore due to no inattention or fault whatsoever on the part of our firm that this loss was involved, but the business was brought to us entirely by the Government, undertaken at its solicitation, and every step of the transaction was taken pursuant to the Government's approval.

Annexed hereto is a statement of the losses incurred in this matter, which fall equally upon the American Trading Co. and ourselves, and which are based upon the cost of these sugars, certain expenses and charges now being incurred in connection therewith being estimated, and the market price of said sugar as of this date.

Respectfully submitted.

B. H. HOWELL, SON & CO.

Mr. REED. Mr. Post, Mr. Tincher has referred to the fact that you appeared before the committee and states that you did not disclose in any way that you represented any other sugar companies. I wish to call attention to the fact that in your testimony in the hearings of January, 1921, at page 65, you stated:

"We represent the sugar producers and sugar refiners, and therefore we never buy or sell sugar for our own account. We did this at the request of the Department of Justice, and we agreed to distribute it as they might direct."

That is a matter of record. In your statement to the committee in January, when you stated you represented the sugar producers and sugar refiners, did you not assume that that was a matter of public knowledge?

Mr. POST. Yes, sir; it is all very well known.

Mr. REED. I simply wish to correct the record in that respect and to call attention to the fact that you did state that you represented other companies. It is in the record on page 65.

Mr. TINCHER. I am frank to say to you that this morning is the first time I have had—and, I think, the average member of the committee—any proof that you were connected in any way or that the other members of B. H. Howell & Son were in any way connected with any other sugar-producing companies in Cuba.

Mr. POST. I am very glad, then, that I made the statement I did at that time.

Mr. REED. He stated that he represented sugar producers and sugar refiners. Mr. Post, I think, stated that very frankly.

Mr. RAINHEY. It is unfortunate, Mr. Post, that the Government did not have more men like you.

(Then follows statements subsequently furnished by Mr. Post.)

B. H. HOWELL SON & CO.,
New York, January 26, 1922.

Hon. GILBERT N. HAUGEN,

*Chairman of the House Committee on Agriculture,
House Office Building, Washington, D. C.*

DEAR SIR: In accordance with the request made upon me by Mr. J. N. Tincher when I was testifying on January 18, 1922, relative to House joint resolution 78 (S. J. Res. 12), I inclose herewith the following statements for the information of the committee:

List of companies in which I am director and/or official.

Sales for 1920, the National Sugar Refining Co. of New Jersey.

Raw sugar sales, crop 1919-20, the Cuban-American Sugar Co.

Sugar sales during crop 1919-20, the Cupey Sugar Co.

Sugar sales during crop 1919-20, New Niquero Sugar Co.

Memorandum of quantity of sugar on hand May 10, 1920, Central Cupey Sugar Co.

Memorandum of quantity of sugar on hand May 10, 1920, National Sugar Refining Co. of New Jersey.

Memorandum of quantity of sugar on hand May 10, 1920, the Cuban-American Sugar Co.

Yours, truly,

JAMES H. POST,
Partner of B. H. Howell Son & Co.

JANUARY 24, 1922.

Post, James H., partner of the firm of B. H. Howell Son & Co., sugar commission merchants, No. 129 Front Street, New York City.

Alliance Realty Co., director.
 American Colonial Bank of Porto Rico, director.
 American & Foreign Marine Insurance Co., director.
 Aquirre Sugar Co., Porto Rico, director.
 American-Hawaiian Steamship Co., director.
 Atlantic Mutual Insurance Co., trustee and finance committee.
 Cuban-American Sugar Co. (and its subsidiary companies), director and president; Chaparra Railroad Co., vice president; Chaparra Sugar Co., vice president; San Manuel Sugar Co., vice president; Colonial Sugar Co., vice president; Tinguardo Sugar Co., vice president; Unidad Sugar Co., vice president; Cuban Sugar Refining Co., vice president; Mercedita Sugar Co., vice president.
 Fajardo Sugar Co., Porto Rico, director.
 Guantanomo Sugar Co., president and director.
 Holly Sugar Corporation, director.
 London Assurance Corporation, trustee.
 National City Bank of New York, director.
 National Sugar Refining Co. of New Jersey (and its subsidiary companies), president and director.
 New Niquero Sugar Co., president and director.
 Terminal Warehouse Co., director.
 Title Guarantee & Trust Co., trustee.
 United States Lloyd's (Inc.), director.
 United States Casualty Co., director.
 United States Life Insurance Co., director.
 West India Sugar Finance Corporation, director.
 Underwood Typewriter Co., director.
 Williamsburgh Savings Bank, trustee.

JAMES H. POST.

Sales for 1920 by the National Sugar Refining Co. of New Jersey.

	Pounds.	Value.	Average price.
January.....	91,965,800	\$12,220,140.14	13.2877
February.....	82,858,478	10,465,210.19	12.6302
March.....	136,584,361	17,379,071.45	12.7241
April.....	76,288,019	11,844,612.69	15.5261
May.....	91,147,073	16,389,892.95	17.9818
June.....	125,291,614	25,891,970.67	20.6654
July.....	108,566,419	23,336,197.36	21.4956
August.....	58,343,367	12,375,885.87	21.2122
September.....	47,688,604	8,650,619.96	13.9459
October.....	77,378,816	8,896,264.78	11.4970
November.....	60,965,126	6,434,734.92	10.5548
December.....	61,899,414	5,049,802.67	8.1681
Total.....	1,018,977,091	156,934,403.65	-----

Raw sugar sales by the Cuban-American Sugar Co., crop 1919-20.

Date of contract.	Sold to—	Number of bags.	Price.	Steamer.	Sailing date.
1919.					
Aug. 13	Colonial Sugars Co.	103,120	1 6.50	Various.	1920.
16	National Sugar Refining Co.	4,005	1 6.50	Munaires.	Feb. 9
16	Lamborn & Co.	16,223	1 6.50	Wachusetts.	Feb. 17
18	do.	54,001	1 6.50	Various.	Jan. 25
Sept. 17	Hanibal Mesa.	18,609	1 6.50	Millinocket.	Apr. 27
22	National Sugar Refining Co.	46,129	1 6.50	Various.	Jan. 25
Dec. 19	do.	15,000	2 12.00	Lake Alvada.	Dec. 24
19	Colonial Sugars Co.	10,000	2 12.00	Lake Otisco.	Dec. 29
1920.					
Jan. 2	National Sugar Refining Co.	19,740	2 11.50	Lake Marion.	Dec. 31
7	Warner Sugar Refining Co.	21,500	2 11.75	Lake Glebe.	Jan. 15
8	American Sugar Refining Co.	40,600	2 11.75	Munorway.	Jan. 21
20	do.	14,280	2 11.75	Everglades.	Jan. 26
22	National Sugar Refining Co.	16,000	2 12.00	Lake Benton.	Jan. 25
22	do.	20,100	2 12.00	Lake Marion.	Jan. 26
24	do.	50,000	2 12.00	Munindies.	Feb. 3
24	Colonial Sugars Co.	15,000	2 12.00	Lake Sanford.	Jan. 30
Feb. 2	American Sugar Refining Co.	15,200	2 12.00	Lake Faresman.	Jan. 29
18	Royal Commission.	35,000	1 9.25	Lubeck.	Mar. 22
18	do.	35,000	1 9.25	Trekieve.	Apr. 25
26	American Sugar Refining Co.	22,400	2 9.25	Lake Beacon.	Feb. 12
26	Czarnikow-Rionda Co.	39,000	2 9.25	Munrio.	Feb. 13
26	American Sugar Refining Co.	51,300	2 9.25	Munaries.	Feb. 19
Mar. 2	Federal Sugar Refining Co.	35,000	2 10.25	Mundale.	Feb. 27
Apr. 9	National Sugar Refining Co.	42,195	2 16.25	Munaries.	Apr. 9
12	do.	47,048	2 17.00	Munindies.	Apr. 18
Feb. 26	Colonial Sugars Co.	15,000	2 9.50	James S. Whitney.	Mar. 29
Mar. 26	do.	13,500	2 9.50	Lake Orange.	Apr. 1
Apr. 28	National Sugar Refining Co.	3,651	2 18.50	Fram.	Apr. 28
May 5	do.	20,000	2 18.50	Crathorne.	May 5
12	do.	33,000	2 19.00	Munwood.	May 12
15	do.	32,500	2 20.50	Munplace.	May 15
15	Colonial Sugars Co.	8,783	2 9.50	Lake Gardner.	May 19
28	National Sugar Refining Co.	52,380	2 19.50	Munerie.	May 28
June 30	do.	36,400	2 17.25	Munarden.	June 30
30	do.	19,956	2 17.25	Craycroft.	Do.
July 6	do.	34,400	2 17.50	W. D. Munson.	July 4
7	do.	20,000	2 17.50	Coquina.	July 7
16	do.	24,500	2 17.50	Generalkonsul Pal-	July 14
16	do.	10,000	2 17.25	lison.	
16	Colonial Sugars Co.	3,500	2 15.50	Lake Faresman.	July 16
23	National Sugar Refining Co.	23,428	2 15.50	Tuscan.	July 19
23	do.	35,500	2 15.25	Lake Girth.	July 23
29	do.	7,200	2 15.25	W. D. Munson.	July 26
Aug. 3	do.	15,440	2 15.25	Munindies.	July 29
6	do.	22,600	2 15.00	Lake Desha.	Aug. 3
16	do.	26,200	2 12.00	Glorietta.	Aug. 6
18	do.	36,700	2 12.00	Munplace.	Aug. 14
Sept. 22	Czarnikow-Rionda Co.	29,200	2 9.75	Munardan.	Aug. 18
	Total.	1,310,068		Mundelta.	Sept. 17

¹ F. o. b.

² C. and .

Sugar sales by the Cupey Sugar Co., crop 1919-20.

Date of sale.	Price.	Bags sold.	Sold to—	Date of shipment.	Steamer.
1919.	Cents.			1920.	
Aug. 16	1 6½	21,453 Cuba centrifugal	National Sugar Refining Co.	Jan. 13	Carib (3,200 bags).
				Jan. 27	Lake Parisman (6,000 bags).
Dec. 4	2 14	3,500 turbinados.....	C. R. Kheiralla.....	Feb. 27	Lake Germania (4,453 bags).
1920.				Mar. 27	Copalgrove (7,800 bags).
Jan. 5	2 12	3,600 Cuba centrifugal	National Sugar Refining Co.	Dec. 31	Vildfugl.
7	2 12	5,381 Cuba centrifugal.	Arbuckle Bros.....	1920.	Taunton.
28	2 12	3,000 Cuba centrifugal.	Pennsylvania Sugar Refining Co.	Jan. 6	Do.
Mar. 19	2 11½	8,000 Cuba centrifugal.	National Sugar Refining Co.	Jan. 28	Altomaha.
Apr. 9	2 18	3,390 turbinados.....	Goodwin Preserving.....	May 4	Brighton.
11	2 18½	7,500 Cuba centrifugal.	National Sugar Refining Co.	Apr. 19	Contoocook.
19	2 18½	5,000 Cuba centrifugal.	do.....	May 9	Glyndon.
June 8	2 19	8,000 Cuba centrifugal.	do.....	June 8	Callabasas.
July 16	2 17½	8,000 Cuba centrifugal.	do.....	July 15	Do.
Aug. 6	2 15	8,000 Cuba centrifugal.	do.....	Aug. 7	Glendola.
Nov. 5	2 6. 50	2,909 Cuba centrifugal.	do.....	Oct. 29	Cananova.
Oct. 19	2 8. 78	6,000 Cuba centrifugal.	do.....	Oct. 13	Glen Doyle.
19	2 8. 78	4,114 Cuba centrifugal.	do.....	Oct. 12	Cayo Mambi.
Nov. 13	2 6. 50	6,532 Cuba centrifugal.	do.....	Nov. 13	Runa.
Dec. 13	2 4. 98	4,580 Cuba centrifugal.	do.....	Nov. 25	Callabasas.

¹ F. o. b.² C. and f.³ Duty paid.

New Niquero Sugar Co., crop 1919-20.

Date of contract.	Sold to—	Bags.	Price.	Steamers.	Date of sailing, 1920.	Number bags shipped.	Destination.
1919.			Cents.				
Aug. 16	Lamborn & Co..... do..... National Sugar Refining Co.	16,667 16,667 16,666	1 6½	Wachusett..... Dicto..... Lake Benton.....	Feb. 9 Mar. 24 Apr. 20	16,667 16,667 16,779	Amsterdam. Do. New York.
1920.							
Jan. 15	do.....	11,303	2 12	Commodore Rollins. Everglades.....	Jan. 12	11,303	Do.
20	American Sugar Refining Co.	7,500	2 11½	Russ.....	Jan. 21	7,500	New Orleans, La.
Feb. 19	Czarnikow, Rionda Co.	17,000	2 9½	Etha Rickmers.....	Feb. 18	17,026	New York.
June 8	Royal Commission.... Warner Sugar Refining Co.	15,000 16,516	2 19	Lake Benton.....	Mar. 19 June 2	15,000 16,528	Queenstown. New York.
17	National Sugar Refining Co.	17,500	2 18½	Lake Clear.....	June 28	17,000	Do.
July 13	do.....	17,000	2 17½	Lake Kytle.....	July 8	16,992	Do.
19	do.....	15,533	2 16½	Lake St. Clair.....	July 25	15,533	Do.
		167,352	.....	.....		166,995	

¹ F. o. b.² C and f.

Stock on hand May 10, 1920, in Cuba, 65,159 bags.

MEMORANDUM.

JANUARY 20, 1922.

From A. Kirstein.

To Mr. J. H. Post, Central Cupey Sugar Co., South America.

Amount of sugar on hand May 10, 1920, 63,301 bags.

, Assistant Secretary.

THE NATIONAL SUGAR REFINING CO. OF NEW JERSEY,
January 20, 1922.

The stock of sugar on hand at May 10, 1920, was as follows:

	Tons.
Raw sugar	15,806
Refined sugar	12,500
Total	28,306

THE NATIONAL SUGAR REFINING CO. OF NEW JERSEY,
C. W. CLARK, Comptroller.THE CUBAN-AMERICAN SUGAR CO.,
New York, January 20, 1922.

Messrs. B. H. HOWELL SON & Co.

DEAR SIRS: With reference to our statement of raw sugar sales, crop 1919-20, the price on shipment of 8,783 bags to the Colonial Sugars Co. per steamship *Lake Gardner* May 19, 1920, was due to a difference of opinion relative to the amount of sugar to be delivered against contract of August 13, 1919. An agreement was reached whereby Colonial Sugars Co. was to receive the above quantity at 9.50 C. & F.

As requested, our raw-sugar stock in Cuba on May 10, 1920, was 382,355 bags.

Yours, very truly,

THE CUBAN-AMERICAN SUGAR CO.
W. R. ROEDEL.

(Thereupon, at 12.15 o'clock p. m., on motion duly seconded, a recess was taken until 10 o'clock a. m. to-morrow, Thursday, January 19, 1922.)

HOUSE OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
Thursday, January 19, 1922.

The committee met at 10 o'clock a. m., Hon. James C. McLaughlin of Michigan (acting chairman) presiding.

There were present: Mr. Haugen, Mr. McLaughlin of Michigan, Mr. Ward, Mr. Purnell, Mr. Voigt, Mr. McLaughlin of Nebraska, Mr. Riddick, Mr. Tincher, Mr. Williams, Mr. Sinclair, Mr. Hays, Mr. Thompson, Mr. Gerner, Mr. Clague, Mr. Clarke, Mr. Jacoway, Mr. Rainey, Mr. Aswell, Mr. Kincheloe, Mr. Jones, and Mr. Ten Eyck.

Mr. ASWELL. Mr Chairman, I ask unanimous consent to proceed for five minutes.

Mr. McLAUGHLIN of Michigan. If there is no objection, you may proceed.

Mr. ASWELL. Mr. Chairman, I want to file a personal protest, as a member of the committee, against the procedure here yesterday. I never saw Mr. Post or heard of him before, and never expect to see him again, but he impressed me as a cultured gentleman. He is 62 years of age, and he impressed me as answering the questions frankly and fairly, and I think this committee lowered its dignity yesterday, and I want to file a protest against that kind of procedure before this great committee. It would appear that Mr. Tincher had some high and mighty sleuth to go about through Mr. Post's back yard and back chamber door and drag out some wonderful secrets about him. I want to read this for the record. This is Who's Who in America, a book, as all

of you know, in which is printed the life record of the most prominent men, business men and professional men, and Mr. Tincher himself is in here, and I notice he says he is identified with farming, and that is all right. I want to read here what is a public record in all the public libraries in this country and in almost every private library, to say nothing about the other public documentary evidence. Here is what Mr. Post has printed in Who's Who, and I would like to read it. It covers every single point Mr. Tincher brought out yesterday, and we wasted yesterday and developed nothing but smoke. Mr. Post is 62 years of age, he says. Of course, these statements are all written by the men themselves.

Mr. CLARKE. Or edited by them.

Mr. ASWELL. Yes; or edited by them. I will read this:

"Began as a clerk, and became partner in 1889 of the B. H. Howell Son & Co. He is the president of the National Sugar Refining Co., of New Jersey; director of the National City Bank of New York, Alliance Realty Co., American-Hawaiian Steamship Co., Atlantic Mutual Insurance Co., United States Life Insurance Co., United States Casualty Co.; director and treasurer, Cuban-American Sugar Co. and various other sugar companies; trustee, London Assurance Corporation, Williamsburg Savings Bank, Franklin Trust Co.; president of trustees of the Adelphi College, Brooklyn; trustee, Princeton Theological Seminary, Williamsburg Hospital, Industrial School Association of Brooklyn," and so on.

All that we brought out yesterday, which would seem to be dragging out secrets, is in a public document which is in every public library and in almost every private library in this country, and I protest against that kind of procedure before this committee. That is all I have to say. There is nothing secret about it at all, and there was nothing developed here that was not a matter of public record.

Mr. MC LAUGHLIN of Michigan. Are you ready to proceed now?

Mr. FRANKLIN. Yes, sir.

**STATEMENT OF MR. WALTER S. FRANKLIN, VICE PRESIDENT
AMERICAN TRADING CO., NEW YORK CITY.**

Mr. TINCHER. Mr. Franklin, you acted for your company in purchasing this sugar in the Argentine and took part in the transaction?

Mr. FRANKLIN. I acted for them in this country.

Mr. TINCHER. What price did you pay for the sugar in the Argentine?

Mr. FRANKLIN. Between 13 and 14 cents.

Mr. TINCHER. What are the freight charges on sugar from the Argentine to our ports?

Mr. FRANKLIN. The freight charges ran, I believe, between \$10 and \$11 a ton.

Mr. TINCHER. What would that be a pound?

Mr. FRANKLIN. About one-half cent a pound, or a little over one-half cent a pound.

Mr. TINCHER. You had offices already in the Argentine and you had your force there?

Mr. FRANKLIN. We have had officers there for about 30 years; yes, sir.

Mr. TINCHER. What other expense is there in shipping sugar besides the shipping charge?

Mr. FRANKLIN. Well, there were the inland rail charges down there, the storage charges, insurance charges, and warehouse charges.

Mr. TINCHER. If I remember correctly, the price that you paid for the sugar there included the assembling of the sugar in the Argentine?

Mr. FRANKLIN. No, sir. Some of the contracts were f. o. b. Buenos Aires, some of the contracts were further inland, and some of them, when the permits were held up, we had to take delivery on and store in warehouses where we could get the space.

Mr. TINCHER. What was the cost of your sugar actually assembled in the Argentine?

Mr. FRANKLIN. The average cost of the sugar f. a. s., which means free alongside the ship, was about 14.20 cents. That did not include the interest on the money. The interest on the money would run the price up. It would be, say, 4,000 tons, if you like, that would cost \$300 a ton, or \$1,200,000. The interest on that at 8 per cent, which is what we were paying at that time, for three months would be 2 per cent, which would be about one-fourth of a cent a pound.

Mr. TINCER. Where did you procure this money?

Mr. FRANKLIN. We borrowed it from the banks.

Mr. TINCER. What banks?

Mr. FRANKLIN. The New York Trust Co. and the Anglo-South American bank. Those were the banks that the American Trading Co. borrowed the money from.

Mr. TINCER. The American Trading Co., as I recall it, financed the transaction, did they not?

Mr. FRANKLIN. Jointly with the Howell company, we both took the responsibility for all the credit.

Mr. TINCER. I understand that; but the money was furnished by those banks and you both took the responsibility for the repayment of the money, or did they borrow some money somewhere, too?

Mr. FRANKLIN. No; I do not know that they did, so far as I am concerned, but the B. H. Howell Co., as you will remember, later established another credit through the National City Bank, as I recall it. In other words, that credit was not used, but was later established in case there was more sugar to be bought under the arrangement by which the Department of Justice asked us to get as large quantities as we could.

Mr. TINCER. You refined that sugar here, then?

Mr. FRANKLIN. I beg your pardon?

Mr. TINCER. Was the sugar that you disposed of refined in the United States?

Mr. FRANKLIN. Oh, no; this was refined sugar that we purchased in the Argentine.

Mr. TINCER. It did not need any refining?

Mr. FRANKLIN. It did not need any refining to sell on the market at that time, but afterwards, as you will remember, I think Judge Glasgow and I both explained, after the sugar got here and the market had broken the character of the Argentine sugar was not such as you would want on your table, for instance. You would want the American white granulated. The Argentine sugar was usually larger lumps and not as pure in color.

Mr. TINCER. But, as I understand, the sugar that was disposed of by you was not refined in any way?

Mr. FRANKLIN. Not until after the market broke; in fact, not until we first appeared before your committee, and then after we could not get a disposal of that sugar, it was found we could dispose of it to a better advantage through regular channels by rerefining it and getting it into American shape. The one reason for doing that was that this sugar, which was bought in the Argentine in bags of 70 kilos, which is practically 130 pounds, and American sugar is sold in 100-pound bags. Consequently the trade wanted it in 100-pound bags rather than as it came from the Argentine.

Mr. TINCER. Where is the sugar that is left?

Mr. FRANKLIN. It is now all disposed of.

Mr. TINCER. The sugar has been disposed of?

Mr. FRANKLIN. Yes, sir.

Mr. TINCER. So there would not be any sugar for the Sugar Equalization Board to take charge of?

Mr. FRANKLIN. Not now; because after very careful consideration of the market conditions, after we first appeared before your committee here, it was realized that the market was going to continue to go on down, and we sold that sugar just as rapidly as we could at the very best prices we could obtain for it so as to prevent losses.

Mr. ASWELL. What did you receive?

Mr. FRANKLIN. It varied in price clear down the line. I think the highest price we received was somewhere along about possibly 15 cents and from there all the way down to 4½ cents.

Mr. McLAUGHLIN of Michigan. Down to what?

Mr. FRANKLIN. 4½ cents, I think, was the lowest price we received.

Mr. TINCER. Then the proposition is simply a matter of the Sugar Equalization Board paying your companies a fixed amount of money.

Mr. FRANKLIN. I would not say that, Mr. Tincher, for the reason, first, because they have been entirely familiar with what we have been doing—that is, since we appeared before you gentlemen and since the time we went before the Sugar Equalization Board, which was before we came before this committee, as you will recall—and secondly, because there are certain things in this case yet which have not been straightened out. There are contracts

there, there are insurance claims, etc., which will have to be straightened out, which we can do or which the board can do, and because of the general proposition throughout the whole transaction we propose to turn over to them the accounts and everything else and have them audit and settle the whole thing without any profit or loss to us.

Mr. CLARKE. To the Sugar Equalization Board?

Mr. FRANKLIN. To the Sugar Equalization Board; that is, we turn over the entire transaction to them.

Mr. TINCHER. You have surely made some figures as to what amount of money it would take to settle these claims, have you not?

Mr. FRANKLIN. If we are successful in collecting all our insurance claims and in making the final collections for the sugar, which I told you was sold under the original contracts as provided for by the Government, if we are successful, as I say, in collecting those insurance claims and collecting those charges which we now have under litigation there with these people who bought that sugar under the contracts made with the Government, if we are successful, the maximum as we see it now will be \$2,000,000. If, on the other hand, we should lose those suits for some reason or other and not make collections from the insurance companies of what we believe are good claims we would then have a maximum loss of about \$2,500,000. In other words, there is practically in that gap there between the claims we have against the actual purchasers of the sugar under the Government contracts and the claims we have against the steamship company, one of the steamers of which caught fire in Buenos Aires, an amount of about \$500,000, as near as we can figure it. That does not include the interest on the money.

Mr. TINCHER. In whose name were these policies of insurance?

Mr. FRANKLIN. They were in the name of the American Trading Co.

Mr. TINCHER. Is there any litigation pending concerning the collection of those policies?

Mr. FRANKLIN. Litigation with the insurance companies?

Mr. TINCHER. Yes.

Mr. FRANKLIN. No; it is not in the hands of the lawyers. It is being collected through the regular channels through our own insurance department.

Mr. TINCHER. Before the real break in the price of sugar, what were you receiving for this sugar?

Mr. FRANKLIN. For this character of sugar?

Mr. TINCHER. What was the highest price you sold any of this sugar for?

Mr. FRANKLIN. The regular price established by the Government, 21.30 cents.

Mr. TINCHER. I believe that is all, Mr. Franklin.

Mr. FRANKLIN. Thank you, sir.

Mr. TINCHER. I do desire, Mr. Chairman, before the hearings on this matter close, in view of what has happened here this morning, to state in the record that I have no apology whatever to make for asking Mr. Post any questions. I perhaps had not read Who's Who as carefully as some people have, but I have no apology to make. I meant no personal offense to Mr. Post, and I think he so understood it, as I talked with him after our colloquy here, and I am sure he had no personal feeling about the matter and knew that I had none, and I have no apology to make for seeking to bring forth the facts in this case, and have no apology to make to this committee or any member of it or to the the Congress for my attitude on this claim.

Mr. ASWELL. I did not ask for an apology. I just wanted to protest against wasting whole day's time.

Mr. TINCHER. I want to call the attention of the committee to the fact that Who's Who is not generally placed in the hearings on bills we have before this committee, and if we want information we do not generally get it from Who's Who but from the lips of witnesses, and it is generally put in the record in some direct way.

I do not care to ask you any other questions, Mr. Franklin, but if there is any statement you feel like making, so far as I am concerned, I will be glad to have you make it.

Mr. FRANKLIN. No, sir; I have tried to give the committee everything we have.

Mr. MC LAUGHLIN of Michigan. Are there any other questions to be asked of Mr. Franklin?

Mr. WILLIAMS. I do not know that I understand about this insurance. What character of insurance do you refer to, Mr. Franklin?

Mr. FRANKLIN. In what case?

Mr. WILLIAMS. You said you had some insurance matters in process of settlement.

Mr. FRANKLIN. Insurance on the vessels, and there was some slight insurance on the sugar in the warehouses in Buenos Aires, as I recall, that has not been settled, but the main amount is due to various damages that occurred on the vessels. There was one of them that caught fire.

Mr. CLARKE. In the docks down there?

Mr. FRANKLIN. In the docks; yes, sir.

Mr. McLAUGHLIN of Michigan. Did you carry insurance against loss or failure to realize profits?

Mr. FRANKLIN. No, sir; none at all. It was just the customary insurance, Mr. McLaughlin, that would be carried on any cargo while it was in transit.

Mr. McLAUGHLIN of Michigan. I understood that, but I wanted the record clear on it.

Mr. FRANKLIN. Yes, sir.

Mr. McLAUGHLIN of Michigan. Are there any other questions or any other witnesses?

Mr. FRANKLIN. None that we have, sir.

STATEMENT OF HON. WILLIAM W. CHALMERS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO.

Mr. McLAUGHLIN of Michigan. Are you here on this hearing, Mr. Chalmers?

Mr. CHALMERS. I am interested in the hearing, and if it is proper for Members of Congress to come in here and file protests, I want to file one; not against the passage of this bill, because I have read the bill and I have read the hearings from beginning to end, and I have determined in my own mind, and, of course, that is a matter for each member of the committee and of the House to determine for himself, that there was never a juster claim presented to Congress than this, and as a Member of Congress I want to protest against the Government of the United States not paying its just debts and legal debts. The Attorney General at one time said it was a legal obligation. Whether it is or not, all of the Government officials who have appeared before this committee say positively that this is a moral obligation, and I am in favor of the Government of the United States meeting all of its moral obligations.

Now, as to whether, as Mr. Johnson said here this morning, undue pressure was brought upon the State Department to get this permit through, it seems to me that that is not material at all. That is a political matter. These people who are here and who have suffered financially acted at the request of the Government of the United States, when appealed to through their patriotism to step in and break the corner on sugar, which they did, thereby saved the people of this country millions of dollars and perhaps a billion dollars or more. They did that and they are not to blame for undue pressure brought upon the State Department. The former State Department under Mr. Colby, in all of the testimony they have brought before this committee, claimed that this was a just and moral claim, and their successors, the Republicans, who are now in the State Department, have appeared before this committee and said that this is a moral and just claim. The former Attorney General, Mr. A. Mitchell Palmer, and his assistants have appeared here and said that the Government is obligated to meet the loss involved in this claim, and under the present administration the Attorney General and his assistants have done the same thing.

Now, it seems to me that the matter that was brought out here by Mr. Tincher this morning in questioning Mr. Franklin is immaterial. It seems to me it is immaterial whether these people made any profit on the sugar that was sold or not, because they are willing, as I understand it, to turn over all profits or any commission that was agreed upon and have the Government of the United States assume this entire transaction from its inception and simply bear the loss that these people were subjected to because they obeyed the mandate or the request of the Government of the United States and stepped in and saved the situation.

Now, as one Member of Congress, I want to protest against not paying this just and moral claim, as I see it.

Mr. TINCHER. Mr. Chalmers, I recognize your absolute right to appear before this committee.

Mr. CHALMERS. I would not have done so, Mr. Tincher, if Mr. Johnson had not appeared on the other side.

Mr. TINCHER. I think the entire committee is glad to have you appear, but you have seen fit to call attention to some questions that I asked Mr. Franklin. I am sure you meant Mr. Franklin instead of Mr. Johnson. They were questions about the price they paid for this sugar and the price at which they sold it. I want to enlighten you on that or to call your attention to the importance of it, in my judgment. It is claimed by these companies that one of the reasons there is an obligation on the part of this Government to pay them—and, perhaps, the strongest reason they have—is that they were denied in a roundabout way the right to resell this sugar in the Argentine. It is also claimed that they were to sell the sugar here for a very nominal profit, and that it was to be more of a patriotic service than anything else. It is also admitted that they bought the sugar in the Argentine for 14 cents a pound assembled there. The carrying charges on it from the Argentine to this country were less than one half cent a pound, and they started out and sold several thousand tons of it for 21 and a fraction cents a pound.

Mr. CHALMERS. Five thousand tons, at 21.31 cents per pound.

Mr. TINCHER. Or about 7 cents a pound more than they accounted for in the figures given here?

Mr. CHALMERS. Yes.

Mr. TINCHER. Do you mean to criticize me for putting those figures in the record?

Mr. CHALMERS. Not at all.

Mr. TINCHER. I do not think you ought to criticize me for bringing out those facts.

Mr. CHALMERS. I did not mean to do that at all, and I supposed that the committee, through the Sugar Equalization Board and their expert accountants, would squeeze out all the profit in this transaction and simply meet the loss that was sustained in putting over this deal, which was immensely successful.

Mr. TINCHER. I am afraid you do not get my point.

Mr. CHALMERS. Yes; I get your point.

Mr. TINCHER. Here is my point: If, instead of trying to make a cent a pound, which I am frank to say to you they could have made at any time, even by reselling the sugar in the Argentine—

Mr. CHALMERS. If they had been permitted to do that.

Mr. TINCHER. They were permitted to do that. They were only held up 10 days, and then they were granted the permit. The old record in this case will disclose that the only price they ever offered this sugar for in the Argentine was an excess of 4 cents a pound, or 2½ cents at the very best, that it cost them, and if that was what they were doing, that should have some bearing on this question of whether or not there is a moral obligation. We must take those things into consideration in deciding whether there is a moral obligation or not.

Mr. ASWELL. When they sold it for 21 cents a pound, was that the price fixed by the Government?

Mr. CHALMERS. 21.3 cents, as I understand it; yes.

Mr. ASWELL. That was the price fixed by the Sugar Equalization Board?

Mr. CHALMERS. Yes. As I understand the proposition, and as you all know because you have been hearing the statements, these people, the American Trading Co. and B. H. Howell, Son & Co., were working under the direction of the Government officials. That is the way I understand the situation.

ADDITIONAL STATEMENT OF MR. WALTER S. FRANKLIN, VICE PRESIDENT AMERICAN TRADING CO.

Mr. ASWELL. Mr. Franklin, at what price did you offer this sugar in the Argentine?

Mr. FRANKLIN. Sixteen cents.

Mr. ASWELL. You offered it down there at 16 cents?

Mr. FRANKLIN. The American Government offered it to the Argentine Government at 16 cents.

Mr. Tincher asked me some direct questions this morning and I answered them exactly as he asked them, in accordance with the facts. Now he intimates, I think, possibly directly based on what I said, that there were no other charges in this transaction. I answered his questions, as I have just said, exactly in accordance with what the actual facts are in the case, as I have done before you time and time again.

Now, I am not an expert accountant and we are not prepared to submit all the detailed figures to this committee for the reason that when the transaction

is taken over by the Sugar Equalization Board, it is natural to suppose, and I think Judge Glasgow has told you that they propose to put their expert accountants on our books and on Howell & Co.'s books and verify everything in this transaction. Now, Mr. Tincher asked me this morning how much we paid for the sugar in the Argentine. I want you to understand that the figures I am giving you from this memorandum are approximate figures, but they are the figures as near as we can estimate them. When the books are finally closed they will naturally give the actual figures we have on our books at the date when the final transaction is wiped out and the auditing is done by the Sugar Equalization Board.

Mr. CLARKE. There will be only fractional variations, then.

Mr. FRANKLIN. It is only a question of variations.

Mr. CLARKE. I mean fractional variations.

Mr. FRANKLIN. So far as I am personally concerned, I am not the auditor of our company, but I think there would be only very small fractional variations. I told Mr. Tincher, and I have told you gentlemen, that we paid between 13 and 14 cents for the sugar, consistently, from the first day I appeared before this committee, and that is correct. We paid in the Argentine, approximately, an average price of about 13.05 cents. We paid for various charges which I outlined to you this morning in the way of inland shipping charges, storage, loading, demurrage, and financing, and various other charges in connection with the getting of that sugar on board the ships, all of which, gentlemen, we can give you certified accounts for, on the basis of pounds, 1.15 cents per pound. As I told Mr. Tincher this morning, that brings the f. a. s. price—free alongside the ship—to 14.20 cents. We paid duty in the Argentine amounting to 1.75 cents.

Mr. MC LAUGHLIN of Michigan. Per pound?

Mr. FRANKLIN. Per pound. That brings the price of that sugar, f. o. b. the ship in the Argentine to 15.96 cents.

Mr. ASWELL. And you offered it to them at 16 cents?

Mr. FRANKLIN. The United States Government offered it to the Argentine Government at 16 cents.

Now, I told Mr. Tincher this morning we paid approximately from \$10 to \$11 a ton freight charges. Our ocean charges and freight, including the insurance, cost us 0.67 cents per pound. The New York charges which include insurance and storage, lighterage, demurrage on lighters, rebagging of a certain portion of it, cables, and certain miscellaneous items in connection with the docking and handling of the cargo there at New York cost 0.42 cents per pound.

Mr. CLARKE. And they are certified accountant's figures?

Mr. FRANKLIN. These are not certified accountants' figures. They are the figures of our own accountants as nearly as we can get them at the present time. We paid here in New York on this sugar as duty 1.29 cents. That brings the total cost of this sugar in warehouses in New York City to an average price of 18.34 cents. Now, that is what that sugar cost us to land in the warehouses in New York. As I explained to Mr. Tincher this morning, there was a portion of that sugar which, in order to dispose of, we had to rerefine, because it was not the character of sugar that ordinarily is accepted in this market by the household consumer. That has been explained here to you gentlemen, I think, two or three times. That amounted to 22,352,000 pounds that we refined at a cost of 1.00 cents. Bear in mind that all these figures are as near as we can get them. That brings the total cost of this transaction on a per pound basis to 19.43 cents.

The CHAIRMAN. You refined only a small part of it?

Mr. FRANKLIN. I gave you the amount we rerefined—22,352,000 pounds.

Mr. KINCHELOE. And including that extra cost, that is the average cost of the whole thing?

Mr. FRANKLIN. That is the average cost of the whole proposition; yes, sir.

Mr. CLARKE. What is that total figure again?

Mr. FRANKLIN. 19.43 cents.

Mr. TINCHER. I do not like to interrupt you, but it does not seem to bother you for other people to interrupt.

Mr. CLAGUE. Let him finish this statement first.

Mr. TINCHER. I understand, then, that you are willing to be interrupted by anybody except me?

Mr. FRANKLIN. No, sir; not at all. I have no prejudice against anybody here, Mr. Tincher.

The CHAIRMAN. Does it cost 6 cents a pound to refine sugar?

Mr. FRANKLIN. I gave you the costs, Mr. Chairman.

The CHAIRMAN. You said the average cost was 1.09 cents a pound, and you refined about one-sixth of it. Let us get that straightened out.

Mr. FRANKLIN. I tried to answer that. I gave you the cost of rerefining this sugar as 1.09 cents.

The CHAIRMAN. When you speak of this sugar, do you mean—

Mr. FRANKLIN (interposing). Just a moment. I have not answered your question yet; 1.09 cents per pound was the actual cost, as near as we can figure it, of rerefining the sugar that we had to refine in order to dispose of it on this market.

The CHAIRMAN. By "this sugar," what do you mean—the 13,000 tons?

Mr. FRANKLIN. No, sir; I am referring to the sugar which we had to rerefine after the market broke, as I explained this morning.

The CHAIRMAN. But you are dealing with the average cost of all the sugar. Now, what was the average cost? Are you dealing with the total amount purchased?

Mr. FRANKLIN. I am now talking about the sugar that we had to rerefine to sell on this market.

The CHAIRMAN. Then, this was the cost of simply the sugar that you refined?

Mr. FRANKLIN. That particular figure which I just gave you of 1.09 cents is the cost per pound of rerefining that portion of the sugar which we had to refine.

The CHAIRMAN. Then, you are dealing with the price of the 22,352,000 pounds, and you are not dealing with the whole lot.

Mr. FRANKLIN. Only that particular item that you asked me about. The balance covers all the sugar that was brought into the United States by the American Trading Co.

Mr. TINCHER. Now, Mr. Franklin, there are two points I want to get clear in this record, and one of them is the Argentine duty.

Mr. FRANKLIN. Yes.

Mr. TINCHER. That is an export duty?

Mr. FRANKLIN. Absolutely.

Mr. TINCHER. You do not pay that duty until you ship the sugar out of the Argentine?

Mr. FRANKLIN. That is true.

Mr. TINCHER. Therefore, if you had sold that sugar in the Argentine, that duty would not have applied.

Mr. FRANKLIN. That is the reason, Mr. Tincher, when you asked me the cost of the sugar in the Argentine this morning—

Mr. TINCHER (interposing). I understood you to say—

Mr. FRANKLIN (interposing). Let me finish, if you please. That is the reason this morning when you asked me the cost of the sugar in Argentina I told you that the sugar cost us 14.20 cents. I told you that in addition to that, the interest on the money for the 4,000 tons which I knew you had in mind was practically one-quarter of a cent, which would make the cost of that sugar there, which the Government offered to the Argentine Government, as near as we can figure, 14 $\frac{1}{4}$ cents.

Mr. TINCHER. So that anyone may understand this, and in order that it may be clear, the Argentine duty did not apply at all and need not be taken into consideration in the offer you made of the sugar to the Argentine Government.

Mr. FRANKLIN. Absolutely not.

Mr. TINCHER. Now, one other point: You were selling sugar at 21 and a fraction cents per pound here. At that time, while you had any such market as that for sugar, you were not rerefining any sugar, and it was not necessary to rerefine this sugar until after the market broke.

Mr. FRANKLIN. Absolutely not.

Mr. TINCHER. So that the rerefining cost should not figure in the price you were selling your sugar for here until after this controversy came up and the market for sugar broke.

Mr. FRANKLIN. That is exactly the way I gave it to you.

Mr. TINCHER. No; it may be that you meant to give it in that way, but you had a set of figures there and you had in your additional rerefining cost on 22,500,000 pounds, and you added that in in arriving at the figure you used when you sold sugar at 21 cents, when it should not have been added, because you did not then contemplate the rerefining of any sugar.

(Here followed informal discussion, which the reporter was directed not to take.)

Mr. JACOWAY. State how you arrived at the average cost per pound of this sugar to you, taking into consideration the refined sugar and the unrefined sugar?

Mr. FRANKLIN. Mr. Jacoway, I have just actually done that in detail; but I want to point out, which I think will clear up your question and clear up Mr. Tincher's question at the same time—

Mr. JACOWAY. You understand, I am just trying to get the record clear.

Mr. FRANKLIN. I understand. When I gave you those prices, Mr. Tincher, I emphasized the price of 18.34 cents, which I told you was our price in the warehouse in New York City. I tried to emphasize that particular thing to you, so as to give you that point and not confuse you with what you seemed to think we were trying to confuse you, which is the higher price of the sugar—namely, that the price which I tried to fix in your mind at that time as the cost of the sugar in the warehouse in New York was approximately 18.34 cents.

The CHAIRMAN. What about this refining? How much of the 18,902 tons imported were refined?

Mr. FRANKLIN. There were 22,500,000—

The CHAIRMAN. That is pounds; reduce that to tons. How many tons is that?

Mr. SINCLAIR. That is over 11,000 tons.

Mr. FRANKLIN. Oh, no; I beg your pardon.

Mr. REED. He is asking the number of tons rerefined.

Mr. FRANKLIN. Yes; you are right about that. That is the amount of sugar that was rerefined.

Mr. JONES. Twenty-two million pounds?

Mr. FRANKLIN. Yes.

The CHAIRMAN. And that is about 10,000,000 long tons?

Mr. FRANKLIN. Yes.

The CHAIRMAN. That would be about two-thirds of the total importation, wouldn't it?

Mr. FRANKLIN. Yes.

The CHAIRMAN. Then the cost would be about two-thirds of the \$1.15, would it not?

Mr. FRANKLIN. About 1.09 cents per pound.

The CHAIRMAN. But what was the average on the total importation?

Mr. FRANKLIN. That is on the amount rerefined.

The CHAIRMAN. Of course, if you are going to deal with these things separately, that is a different thing.

Mr. FRANKLIN. I tried to explain, Mr. Chairman, that of the amount that was brought in that we rerefined—

The CHAIRMAN. I understand that.

Mr. FRANKLIN. The cost per pound—

The CHAIRMAN. Was 1.09 cents, and you propose to add that 1.09 cents to all of it? Is that it?

Mr. FRANKLIN. I propose to add the cost of rerefining the portion that we did rerefine to the final cost of the sugar at that time.

The CHAIRMAN. If you want to deal with two of them separately, very well.

Mr. KINCHELOE. You stated that your average cost in the warehouse in New York on all your sugar that was imported was 18.34 cents, and in arriving at that you took the cost of rerefining a certain part of it, and you took the export and import duties and your insurance, and everything?

Mr. FRANKLIN. Absolutely; yes, sir.

Mr. ASWELL. Mr. Franklin, the Sugar Equalization Board proposes, as I understand it, to have its auditors check your figures and squeeze out all the profits and check up exactly the loss and nothing else. I understand that is what they will do.

Mr. FRANKLIN. I think so.

Mr. ASWELL. Then what does all this discussion have to do with that?

Mr. FRANKLIN. Nothing whatever, sir, except that I wanted to make myself clear before these gentlemen in regard to what the sugar cost us in the warehouse in New York.

Mr. ASWELL. Would not those auditors check you up and bring that out, anyway?

Mr. FRANKLIN. Absolutely, they will; and I have explained that to you.

Mr. TINCHER. I am a little surprised that you, as a witness before the committee, should express the opinion that the cost of this sugar in the Argentine

and the selling price of it here would not be a matter for this committee to consider and discuss.

Mr. ASWELL. Oh, no; I did not ask that question.

Mr. TINCER. We are called upon here to pay a moral or legal obligation. You lost this money, and you are supposed to have clean hands. Do you think that my questions relating to the price of this sugar have nothing to do with this transaction?

Mr. FRANKLIN. I said, in answer to Mr. Aswell's question, that they would have nothing to do with the final liquidation of it, because we were turning the whole transaction over to the Sugar Equalization Board. I think your questions are perfectly proper and perfectly in order; absolutely. There is no question about that.

Mr. JONES. If I understand you, the whole thing is bottomed on your not making more than a cent a pound, and is therefore a moral obligation?

Mr. FRANKLIN. Absolutely. It was never contemplated that we would make more than a cent a pound, and as the contracts read, as you will remember, if at any time there was more than that, then when the transaction was concluded any amount over that would be refunded to the party that bought the sugar.

Mr. JONES. That is the reason I emphasized the fact, however, that I did think his questions were very pertinent, for the reason that it would bear on the moral obligation to pay the money. If it was not being carried out in good faith, of course there would not be any moral obligation. I am just saying that as indicating that I think the questions are pertinent.

Mr. FRANKLIN. I said, Mr. Jones, that I thought so too. All I have tried to do this morning, gentlemen, is to clear up the apparent discrepancies between the figures that I gave Mr. Tincher in answer to his and other questions this morning and the total cost of the sugar landed in the warehouse in New York.

Mr. WARD. Mr. Franklin, under your original contracts if you had made more than 1 cent a pound on the sugar, does the contract read that the surplus profit should be returned to the purchaser or to the Government?

Mr. FRANKLIN. It read it should be returned to the purchaser; in other words, that the transaction should be carried on so that the two companies which were acting for the Government in the transaction should not receive more than 1 cent per pound each.

Mr. WARD. And you could not possibly have made any more money out of the transaction if it had all been completed as originally arranged?

Mr. FRANKLIN. Absolutely.

Mr. WARD. That is, H. B. Howell & Co. 1 cent a pound, and the American Trading Co. 1 cent a pound?

Mr. FRANKLIN. That is quite right.

Mr. WARD. And that was to be handled by the Sugar Equalization Board?

Mr. FRANKLIN. Yes, sir.

The CHAIRMAN. Now, Mr. Franklin, you have given us the estimated cost of the 22,000,000 pounds that were rerefined. Do you care to give the estimated cost of all of it, the 18,902 tons?

Mr. FRANKLIN. I have done that, Mr. Chairman.

The CHAIRMAN. You have given us the cost of the 22,000,000 pounds.

Mr. PURNELL. Mr. Chairman, I believe I can clear up the difficulty that is in your mind.

The CHAIRMAN. Well, but this is a different proposition.

Mr. PURNELL. They spread the cost over all of it.

The CHAIRMAN. Are we to understand that that is the average cost to refine all of it?

Mr. FRANKLIN. I am sorry that I do not catch that question.

The CHAIRMAN. Mr. Purnell now claims that that \$1.15 is the average cost. Is that the average cost of all of it, and is that added to the 18.34 cents?

Mr. FRANKLIN. To get at the final figure, Mr. Chairman—

The CHAIRMAN. Well, what is the average cost of the sugar you imported?

Mr. FRANKLIN. Let me get this down straight, please. The average cost, including everything in connection with the transaction except the interest on the money, as nearly as we can figure it amounts to 19.43 cents per pound.

The CHAIRMAN. That is adding 1.09 cents per pound to all of it, is it not?

Mr. FRANKLIN. That is adding 1.09 cents to the portion of the sugar that was rerefined.

The CHAIRMAN. But you add that to the total importation. Now, there is a discrepancy there. If the actual cost was 1.09 cents for only part of it, it would not be fair to add that 1.09 cents to all of it.

Mr. FRANKLIN. The point is there, Mr. Haugen, as I see it, that you do not differentiate between the total cost and the average per pound cost. If you are treating the transaction on the average per pound cost you have got to add to it anything which tends to increase that average per pound cost.

Mr. JONES. I think this is the point he is getting at. Did you spread this cost over the entire sugar?

Mr. FRANKLIN. That is it.

The CHAIRMAN. I think Mr. Franklin certainly understands, and I think I do, and I think every member of this committee does. Now, what is the cost of refining sugar?

Mr. FRANKLIN. The cost of refining the sugar was 1.09 cents per pound.

The CHAIRMAN. Then you refined a part of it, about two-thirds of it, and you now propose to charge 1.09 cents for all of it?

Mr. FRANKLIN. That cost was averaged over the entire lot of sugar on the average basis.

The CHAIRMAN. Well, if you want the record to stand that way, let it stand right there.

Mr. FRANKLIN. I am afraid I can not make it any clearer, sir.

Mr. REED. Excuse me just a minute. Let me ask one question which I think will bring out the point. Did you make any charge in your costs for refining sugar which was not refined?

Mr. FRANKLIN. No.

Mr. REED. Did you make any charge whatever for refining any portion of the sugar which was not refined?

Mr. FRANKLIN. No.

The CHAIRMAN. All right. Then the question is: What is the average cost of the sugar, the whole lot?

Mr. FRANKLIN. 19.43 cents, including the refining.

The CHAIRMAN. Then you do add 1.09 cents to that portion of it which was not refined?

Mr. FRANKLIN. Oh, no.

The CHAIRMAN. I am willing to let that statement remain if you are.

Mr. ASWELL. Mr. Chairman, I am not willing for it to go that way.

The CHAIRMAN. I am perfectly willing to let that statement rest where it is.

Mr. ASWELL. I want to ask the witness a question, if I may. Mr. Franklin, as I understand him, says that the cost of refining that 22,000,000 and odd pounds of sugar was 1.09 cents a pound. Now, he took that 1.09 cents on the 22,000,000 pounds, and distributed that over the whole lot, and he did not charge anything extra for that which he did not refine.

The CHAIRMAN. But that is not his statement.

Mr. FRANKLIN. Yes, it is.

The CHAIRMAN. I think Mr. Franklin is perfectly competent to answer these questions. I simply want to get at the cost, and I am perfectly willing to let his statement remain as it is.

Now then, can you approximate the loss?

Mr. FRANKLIN. Yes, sir.

The CHAIRMAN. What is the present price of sugar? What is sugar worth to-day?

Mr. FRANKLIN. I approximated the loss to Mr. Tincher this morning when you were not here, Mr. Haugen, in this way: So far as we can now see, if we collected the insurance claims, and the legal claims that we have against the people to whom we originally sold the sugar under the original contracts, we would have a loss of approximately \$2,000,000.

The CHAIRMAN. Well, what is the price of sugar to-day? What do you expect to get for this 8,000,000 pounds?

Mr. FRANKLIN. All the sugar that we have brought in under this contract has been sold.

The CHAIRMAN. What did it sell for?

Mr. KINCHELOE. He has stated that this morning when you were not here, Mr. Chairman.

Mr. FRANKLIN. It sold at prices varying from about 15 cents to about 41 cents.

The CHAIRMAN. What was the average?

Mr. FRANKLIN. The average price realized was about 11.06 cents.

The CHAIRMAN. Then the loss would be more than 7 cents a pound?

Mr. FRANKLIN. No, sir; that is the average—

The CHAIRMAN. Well, you have figured up the average cost at 19.43, and you say you sold at an average of 11.06. Subtract 11.06 from 19.43, and you get—

Mr. CLARKE. It is eight and a fraction.

The CHAIRMAN. Yes; eight and a fraction.

Mr. FRANKLIN. That is approximately correct; yes, sir.

The CHAIRMAN. Is that figured on the 13,902 tons?

Mr. FRANKLIN. No, sir. The loss, Mr. Haugen, is taken as a whole on the whole transaction, including all claims and insurance and everything else there is. I tried to explain that the best I could.

Mr. KINCHELOE. You have given that here in your statement?

Mr. FRANKLIN. Absolutely.

The CHAIRMAN. Well, there are a number of controverted questions here, and I am trying to get it straight in the record. I am trying to find out what this will amount to when you get it settled, and it seems to me you ought to be able to approximate the loss. You stated before that it would be about \$1,900,000, or probably \$2,000,000. Now, what is the loss going to be?

Mr. FRANKLIN. The loss is going to be, Mr. Haugen, \$2,000,000.

The CHAIRMAN. For what?

Mr. FRANKLIN. Two million dollars on the whole transaction, if we collect insurance claims and the claims on the original contracts of—I will give you those amounts—approximately \$488,000.

The CHAIRMAN. What is that for?

Mr. FRANKLIN. That is for the items that I just mentioned to you, the insurance and so on.

The CHAIRMAN. Which is now claimed?

Mr. FRANKLIN. Which is now claimed. So that our maximum loss on the transaction will be approximately \$2,500,000. Our minimum loss will be approximately \$2,000,000. Depending on those two things that I have just recited to you, amounting to \$488,000.

Mr. JONES. I would like to ask some questions along the line of that.

The CHAIRMAN. I would like to get his answer on that. How do you arrive at those figures? Eight cents a pound would be more than that, would it not?

Mr. FRANKLIN. Would you mind if I gave you the total figures? I have given it to you per pound. Suppose I give you the actual out-of-pocket cost on it?

The CHAIRMAN. Don't you think we ought to have that, so we can explain that to the House, if this matter goes to the House? I take it you have those figures, or can get them.

Mr. FRANKLIN. Yes, sir; I can give you those figures now, Mr. Haugen.

The CHAIRMAN. Then how do you arrive at the \$2,500,000? How much a pound loss is that?

Mr. HAYS. I suppose they know how much money they have paid out and how much money they have received.

Mr. CLARKE. Divide it by the number of pounds of sugar. It is eight and a fraction cents.

Mr. JACOWAY. Mr. Chairman, you are trying to get at a definite thing, in order to know what this loss is. I am going to make the suggestion that you examine the witness in order to get what you want, so that you, as chairman of this committee, can make the report, and then turn the witness over to the committee.

The CHAIRMAN. All I want to know is the exact loss.

Mr. SINCLAIR. Is not this about what you have stated? The cost of that sugar was 19.43 cents a pound. You sold it at about 11-plus cents a pound?

Mr. FRANKLIN. Yes, sir.

Mr. SINCLAIR. You handled about 30,000,000 pounds of sugar?

Mr. FRANKLIN. Quite right.

Mr. SINCLAIR. At a loss of 8 cents per pound. Eight times 30,000,000 would be \$2,400,000? That is approximately your loss?

Mr. FRANKLIN. Yes, sir. There is about an 8-cent loss on the transaction.

The CHAIRMAN. Well, you have \$488,000 for other charges?

Mr. FRANKLIN. No, sir; that is all in there, Mr. Haugen. That is included. That is the maximum loss per pound.

The CHAIRMAN. You sold 5,000 tons and you made \$200,000 on that. What about that? Is that to be deducted from this amount?

Mr. FRANKLIN. That is taken into the whole transaction.

Mr. KINCHELOE. You considered that when you arrived at this figure of 11.06 cents?

Mr. FRANKLIN. Absolutely. When we arrived at the 11.06 cents, that is taken in—

The CHAIRMAN. Let me read Mr. Glasgow's statement and see if you agree with it. He says:

"The Sugar Equalization Board would dispose of the remaining 9,000 tons of sugar at a loss, against which would be credited a profit which had been made on the 5,000 tons, and if I understand it the net loss would be somewhere in the neighborhood of \$1,900,000 or \$2,000,000 when the transaction is closed."

Mr. FRANKLIN. That is right, sir.

The CHAIRMAN. Your estimate is more. You agree to that statement, do you?

Mr. FRANKLIN. I agree to that statement absolutely.

The CHAIRMAN. And your estimate of the maximum loss now is \$2,500,000 and the minimum \$2,000,000?

Mr. FRANKLIN. Yes, sir.

The CHAIRMAN. Now, then, we have it straight in the record.

Mr. JONES. I want to ask a few questions about that contract. To whom were you planning to sell this sugar?

Mr. FRANKLIN. The names of those people were furnished by the Department of Justice.

Mr. JONES. Certain individuals throughout the country, were they not?

Mr. FRANKLIN. I really do not know that, because Howell & Co. handled that.

Mr. JONES. On what basis were you doing business generally, your company, at that time? On the license system?

Mr. FRANKLIN. We had a general license, I think, Mr. Jones, but the importation of this sugar required no license.

Mr. JONES. You had no license at all for the importation of this sugar?

Mr. FRANKLIN. There was no license required; no, sir.

Mr. JONES. Now, you were permitted by the Government to sell this sugar at 21 cents a pound?

Mr. FRANKLIN. Howell & Co. did that, you see, under their license.

Mr. JONES. On a certain premium that was given you by the Government, upon which you estimated the cost of this sugar? Is that right?

Mr. FRANKLIN. That is quite right.

Mr. JONES. Now, have you any of those terms written down or in writing, other than as they are disclosed in your cablegrams through the State Department here?

Mr. FRANKLIN. Well, you must recollect, Mr. Jones, that the actual contract which was drawn up, as I remember it, in the Department of Justice, was filed with your committee as a part of the hearings.

Mr. JONES. Well, now, that contract specifies 21 cents a pound, does it not?

Mr. FRANKLIN. It specifies our cost at 21.30 cents.

Mr. JONES. That contract does not say anything about your returning these profits to the purchaser?

Mr. FRANKLIN. Yes; it does.

Mr. JONES. I see; a statement of the credit balance would be rendered to the buyer. Now, in your transactions with the Government, did they ever check over and run down these items, or did they take your figures for them?

Mr. FRANKLIN. They went over the list with me in the Department of Justice at the time that figure was used.

Mr. JONES. Now, this 5,000 tons that you actually sold for 21 cents—you actually sold 5,000 tons at 21 cents. Did you return the buyers anything on that?

Mr. FRANKLIN. No.

Mr. JONES. Did you rerefine that 5,000 tons?

Mr. FRANKLIN. We rerefined a portion of it; yes.

Let me clear that up for you. There was only delivered under those original contracts—that 5,000 tons that you are talking about—as Argentine sugar, about 2,652,000 pounds. Against those same contracts were delivered American refined sugar, this rerefined sugar, at that same price, because those people preferred it, amounting to 2,470,000 pounds. That means that of the original 5,000 tons you are now talking about there was delivered on those contracts approximately 2,700 tons. Now, as I have told you, there is left, which we are trying to clear up, contracts which run into about \$430,000. Do you follow me in that statement?

Mr. JONES. I think I understand. What did you do with the other 23,000 tons?

Mr. FRANKLIN. That was rerefined and sold in order to return this approximate price which we have given here, and the people to whom it was sold were notified that it was going to be sold for their account at that price.

Mr. JONES. This 2,700 tons that you actually sold was sold at 21 cents, was it not?

Mr. FRANKLIN. Sold at 21.30, less 2 per cent.

Mr. JONES. Now, no one of those purchasers got a credit rebate, did they?

Mr. FRANKLIN. No.

Mr. JONES. You sold at 21.30?

Mr. FRANKLIN. That is right.

Mr. JONES. And at the highest estimate you have made that sugar cost you 19.43—taking your figure for the highest estimate you made?

Mr. FRANKLIN. That is right.

Mr. JONES. Now, on none of this sugar that was sold was there a credit rebate given the purchaser?

Mr. FRANKLIN. No.

Mr. JONES. I believe you said that in getting at the 21 cents per pound the Government and you had gotten together and estimated what the total cost would be?

Mr. FRANKLIN. That is right, sir.

Mr. JONES. And then the balance was left to you people—all the details of working it out?

Mr. FRANKLIN. Well, there was no question, Mr. Jones, but what the whole transaction was going to be submitted to them and checked up by them.

Mr. JONES. How did you arrive at the 21.30 cents?

Mr. FRANKLIN. By taking into account all the charges which we estimated.

Mr. JONES. Now, you took that up with the Department of Justice and figured those estimated charges, did you not?

Mr. FRANKLIN. Absolutely.

Mr. JONES. You knew just what the specific charges that you have read would be at that time, did you not?

Mr. FRANKLIN. No, sir.

Mr. JONES. You knew what the ocean freights would be?

Mr. FRANKLIN. Yes; but you must appreciate that there are lots of things, like demurrage on lighters, loss of weight, and all such things that you can not estimate.

Mr. JONES. But the demurrage is a small item when figured on a large quantity of sugar?

Mr. FRANKLIN. Comparatively; but it all amounts up.

Mr. JONES. The ocean freight rates, the insurance, and the duty, which were the large items, were well understood.

Mr. FRANKLIN. All well understood.

Mr. JONES. And these other items were small items?

Mr. FRANKLIN. Yes.

Mr. JONES. Now, you estimated all those things, and the Government gave you permission to sell at 21 cents per pound. Now, the Government largely accepted your figures in permitting you to sell at 21.30 cents, did they not?

Mr. FRANKLIN. Yes; I think there is no question about that.

Mr. JONES. Now, under any of your transactions that you had with the Government in other matters, did you return to the purchaser any money, or were you required to return to the purchaser any money where articles were sold at a larger figure than the cost would justify, or did you have any other such contracts?

Mr. FRANKLIN. We had no other such contracts.

Mr. JONES. This was the only contract of the kind that you had?

Mr. FRANKLIN. Yes, sir.

Mr. JONES. Now, you say you have 13,000 and some odd tons of sugar on hand now?

Mr. FRANKLIN. Not a pound.

Mr. JONES. Yes; I believe you said you sold all this. But I mean at the time the sugar was disposed of finally—the last of it—what amount did you have on hand? In other words, what amount did you have on hand, in actual tons, after you had sold your 5,000 tons?

Mr. FRANKLIN. We had about 8,000 tons, or something like that.

Mr. JONES. Something over 8,000 tons you had on hand?

Mr. FRANKLIN. Yes.

Mr. JONES. I believe you said a copy of the contract that you referred to was put into the record?

Mr. FRANKLIN. Yes, sir.

Mr. JONES. Whom did you have your negotiations with in the department when you estimated the cost of the various things?

Mr. FRANKLIN. Mr. Figg.

Mr. JONES. He was the man with whom you had the estimates and agreed upon the terms and the charges to the purchaser?

Mr. FRANKLIN. There was, I think, a representative of the State Department there at the time, but I am not positive about that. Mr. Figg was the man who worked this out.

Mr. JACOWAY. Who was Mr. Figg?

Mr. FRANKLIN. Mr. Figg was an Assistant Attorney General of the United States.

Mr. KINCHELOE. You say you sold the balance of this sugar; who received the money for that?

Mr. FRANKLIN. We received the money for that.

Mr. KINCHELOE. And now you figure they owe you between two and two and a half million dollars, including—does that include the money you have already received?

Mr. FRANKLIN. Absolutely; yes.

Mr. KINCHELOE. They owe you that in addition to what you have already received for the last sales?

Mr. FRANKLIN. Absolutely; yes.

Mr. KINCHELOE. When did you sell that last?

Mr. FRANKLIN. I am not quite sure about the dates, but I think in August or September of this past year.

Mr. KINCHELOE. What was your original claim?

Mr. FRANKLIN. I think the original figure that I gave here was \$1,900,000, as I remember it. I think that was what Judge Glasgow said at the same time.

Mr. KINCHELOE. How much money did you receive for this sugar that you sold in September last, or about September?

Mr. FRANKLIN. I can not tell you that.

Mr. KINCHELOE. Are you crediting that?

Mr. FRANKLIN. Absolutely; yes.

Mr. KINCHELOE. You are crediting that on what you originally claimed that the Government owed you?

Mr. FRANKLIN. Absolutely. That is all included in this price we have been working on here, Mr. Kincheloe.

Mr. TINCHER. As to this so-called contract, I think we had a pretty clear understanding of that before, but I do not think the record is in very good shape on it.

At the time of this transaction the Government was controlling the price of sugar? That is, the Department of Justice was enforcing the Lever Act, and all the sugar dealers were under a license system? As I remember, it was testified before that they had all had a permit or contract, or whatever you call it, to sell at the same price?

Mr. FRANKLIN. That is quite right.

Mr. TINCHER. And this was not any different from any one else's that was selling sugar in the United States?

Mr. FRANKLIN. I told you, when Mr. Jones asked me that question, that we did not have to have a license to import this sugar?

Mr. TINCHER. But to sell it?

Mr. FRANKLIN. Howell & Co. sold it under their regular license that they had.

Mr. TINCHER. And that was not any different from the license that every other sugar dealer in the United States had?

Mr. FRANKLIN. Not that I know of.

Mr. TINCHER. There was no discrimination in your favor or against you?

Mr. FRANKLIN. Not that I know of.

Mr. TINCHER. Don't you recall that that came out in the hearings here on the part of somebody in the Government, who explained that the regulations were exactly the same as to you as they were for everybody else?

Mr. FRANKLIN. I think they explained that the sugar was sold under the same regulations as the other dealers had.

Mr. TINCHER. Exactly the same regulations as to price—

Mr. FRANKLIN. Oh, no.

Mr. TINCHER. Well, if I am wrong about that I want to know it.

Mr. FRANKLIN. You remember, Mr. Tincher, you asked me about the importation of the sugar and the question of what profit there was on that. I tried to clear that up for you the last time, and told you that importers were making profits, as Mr. Figg and the others all testified to, very much higher than 1 cent a pound. Those transactions were different.

Mr. TINCHER. They required no license?

Mr. FRANKLIN. No; and the license under which this sugar was sold here in the United States, as I understand it, was the same license under which Howell & Co. sold other sugar throughout the country.

Mr. TINCHER. So this direction to Howell & Co. was applied to all the sugar that was sold?

Mr. FRANKLIN. No, sir; not at all.

Mr. KINCHELOE. That is, when you were getting 21 cents a pound for this sugar, were other sugar dealers getting any more or less than that?

Mr. FRANKLIN. Oh, they were getting up to 28 and 30 cents, depending upon the price prevailing in the market.

Mr. KINCHELOE. Was that under the regulation of the sugar board?

Mr. FRANKLIN. Why, I suppose there is no question about that.

Mr. TINCHER. The Attorney General, after the work of the Sugar Equalization Board was turned over to him by the President, fixed the price of sugar. He told the Louisiana sugar growers what they could charge for sugar—that is, the wholesale price—and he told the beet sugar growers what they could charge, and they issued certain bulletins and letters and directions concerning that from the Department of Justice, and the people that sold this sugar in the United States, or were supposed to sell it, operated under the same license, the same form of contract exactly, that all the others were operating under? Is not that true?

Mr. FRANKLIN. No, sir.

Mr. TINCHER. That was my recollection of this testimony by the Department of Justice.

Mr. FRANKLIN. Mr. Tincher, let me answer that question. They sold the sugar under the same license, but not under the same contract. The contract that they sold this sugar under was the particular contract which was approved by the Department of Justice for this particular sugar, and, so far as I know, no other sugar was ever sold under that same kind of a contract.

Mr. KINCHELOE. Who fixed those regulations as to the price of sugar?

Mr. FRANKLIN. The Department of Justice.

Mr. KINCHELOE. That 21 cents a pound sugar you are talking about now?

Mr. FRANKLIN. Yes, sir.

Mr. KINCHELOE. They did that then for the purpose of breaking the market?

Mr. FRANKLIN. Absolutely.

Mr. JONES. There is one other question I wanted to ask. In this exhibit here, Exhibit 9, there is no reference made to any agreement to sell sugar at 1 cent per pound profit. Where is that? In what form did you have the agreement that the sugar should be sold at 1 cent per pound profit?

Mr. FRANKLIN. That was a verbal agreement at the meeting, as I testified, I think, about the end of May, which was later confirmed in writing by Mr. Figg.

Mr. JONES. All that this contract that you refer to says is this:

"Should various estimated charges used in arriving at the above prices prove less than expected, credit voucher for the difference will be rendered buyer."

That does not require the return in the event you make more than 1 cent per pound?

Mr. FRANKLIN. Absolutely.

Mr. JONES. It only requires the return in the event your estimated charges are less than your figure?

Mr. FRANKLIN. No, Mr. Jones; that contract required us to return, and the agreement with the Department of Justice required us to return—

Mr. JONES. I can not see this contract that way.

Mr. FRANKLIN. The agreement that we had with the Department of Justice was that the Howell Co. should receive 1 cent and that the American Trading Co. should receive 1 cent.

Mr. JONES. That is, 21.30 cents?

Mr. FRANKLIN. That was the understanding at the meeting at the end of May, and that was agreed upon. Now, if you will look at that contract that

you have there, that contract came out, as I remember it, some time around the first part of July, so that it followed considerably after the agreement which we had and was intended to cover our final estimated figures; and anything that should be obtained over 1 cent, regardless of how it was obtained, either in regard to that price or any other price, should be refunded to the purchasers.

Mr. JONES. But this was the form in which it was reduced to writing, and this contract does not require that you return to the purchaser anything that you make over the 1 cent per pound.

Mr. FRANKLIN. No, Mr. Jones; that was not a contract between the Department of Justice and its agents, but a contract which Howell & Co. gave to the purchasers, and therefore it did not stipulate what the agreement was between the Government and its agents.

Mr. JONES. I know; but when I asked you the question awhile ago about your obligation to return to the purchasers the money you made over 1 cent a pound, you referred me to this Exhibit 9. I am calling your attention to the fact that that does not obligate you to return any money in the event you make more than 1 cent per pound. It does not even obligate you to return the money if you make 3 cents per pound or any other definite or specified amount.

Mr. FRANKLIN. I say that as I understand it, that contract requires the Howell Co. to return to the purchaser of the sugar anything over the price they finally found as the actual cost plus 2 cents.

Mr. JONES. Here is the only thing I find, after reading it rather hurriedly: "Should various estimated charges used in arriving at the above prices prove less than expected, credit voucher for the difference will be rendered buyer."

Now, if your charges went ahead in the same form and were not reduced, even though you made 3 or 4 or 5 cents per pound, you would not be obligated under that statement to return that sum?

Mr. FRANKLIN. I understand that under that contract we would be obligated to return that to the purchasers, but I still go back to the agreement we had with the Department of Justice, which was separate from this particular thing you are talking about, which was later mentioned by Mr. Figg in his letters to the President.

Mr. JONES. It was a verbal agreement?

Mr. FRANKLIN. At the time it took place; yes.

The CHAIRMAN. Mr. Jones, it is after 12 o'clock. Do you desire to go on to-morrow?

Mr. FRANKLIN. I do not know whether it is in order or not, Mr. Jones, but I should be glad to go over that with you individually and try to explain it to you.

The CHAIRMAN. You have a detailed statement there. Do you care to file that in the record?

Mr. FRANKLIN. I have not anything but a lot of memoranda, Mr. Chairman.

The CHAIRMAN. Would you care to put in the record a detailed statement of that?

Mr. FRANKLIN. I can do so perfectly well, if you think it is necessary. We never have thought it necessary, for the reason that the whole thing is going to be turned over to the sugar board and audited anyhow.

Mr. JONES. I do not care to ask anything further. I will let it go at that.

Mr. JACOWAY. Mr. Chairman, you were asking some questions a while ago that I was very much interested in, because you were trying to reach a definite point. As chairman of this committee, who will have to make the report, do you feel that the witness has clarified these things that were troubling you?

The CHAIRMAN. Oh, I think so. I was simply suggesting that he might submit an itemized statement that would clarify it further.

Mr. FRANKLIN. I can do that, sir.

(Thereupon, at 12.20 o'clock p. m., on motion duly made and seconded, the committee adjourned, to meet at 10 o'clock a. m., Friday, January 20, 1922.)

(The following occurred on January 20, during the hearing on the De Ronde sugar matter:)

The CHAIRMAN. Are there any other witnesses to be heard?

Mr. WARD. Mr. Chairman, I believe Mr. Franklin wants to submit a statement.

Mr. FRANKLIN. Mr. Chairman, I simply want to put in the statement you asked for yesterday afternoon, and to say that the figures in connection with the Buenos Aires office have been audited by Haskins & Sells, certified accountants, and are being reaudited with our general books there now by Price, Waterhouse & Co., both of which audits will be turned over to the Sugar Equalization Board.

This is the statement I refer to and is all I have to submit now.
(The statement referred to follows:)

JANUARY 1, 1922.

Account of 13,902 tons Argentine sugar bought in May, 1920, under the direction of Department of Justice, United States of America.

	Cost.	Equivalent per pound.
		Cents.
13,902 tons of 1,000 kilos (2,204 pounds), 30,648,349 pounds, cost, inland shipping, storage, insurance, loading, demurrage, finance, etc., total f. a. s. Buenos Aires (not including interest)..... Export duty in the Argentine.....	\$4,354,305 538,609	14.20 1.76
Total f. o. b. charges, Buenos Aires..... Ocean freight and insurance..... New York charges, including storage, insurance, lighterage, demurrage, rebagging, cables, and other miscellaneous charges..... United States duties.....	4,892,914 205,238 127,807 398,712	15.96 .67 .42 1.29
Total cost in warehouse, New York..... Refining charges on 22,352,692 pounds at 1.50 cents, or as an average on the whole transaction 1.09 cents.....	5,622,671 335,290	18.34 1.09
Total cost (not including interest)..... Total amount realized from sales, settlements of contracts, insurance, including commission, etc.....	5,957,961 3,490,327	19.43 11.38
Maximum loss..... Insurance claims, etc., estimated may realize..... Claims against unfilled Argentine sugar contracts, net (collection uncertain) on original sales.....	2,477,634 \$25,078 433,194	8.07 1.49
Minimum loss.....	458,272 2,019,362	1.49 6.58

NOTE.—All figures averaged over the entire transaction of 30,648,349 pounds.

Mr. WARD. Mr. Chairman, I want to request that the hearings on my resolution be continued on February 3 next, which will give every member ample time to look over the documents we get from the State Department.

Mr. PURNELL. That is perfectly satisfactory to me.

Mr. ASWELL. Mr. Chairman, I would like to offer an amendment that if the hearings on the De Ronde claim are not completed at that time, that they follow the hearings on Mr. Ward's resolution, as has been agreed to before.

The CHAIRMAN. How long will it take you, Mr. De Ronde?

Mr. DE RONDE. I do not know.

The CHAIRMAN. How many witnesses have you?

Mr. DE RONDE. There is only myself present.

Mr. WARD. Mr. De Ronde would not have any objection to giving way for about half an hour in order to finish my resolution at that time.

Mr. DE RONDE. Not at all.

Mr. KINCHELOE. Then it is understood that these hearings are set for the 3d, and if we do not get through with Mr. De Ronde before that time, then he is to follow.

The CHAIRMAN. Yes.

(The motion, having been duly seconded, prevailed.)

HOUSE OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
Friday, February 3, 1922.

The committee met at 10 o'clock a. m., Hon. Gilbert N. Haugen (chairman) presiding.

There were present: Mr. Haugen, Mr. McLaughlin of Michigan, Mr. Ward, Mr. Purnell, Mr. McLaughlin of Nebraska, Mr. Riddick, Mr. Williams, Mr. Sinclair, Mr. Thompson, Mr. Clague, Mr. Clarke, Mr. Jacoway, Mr. Rainey, Mr. Aswell, Mr. Kincheloe, Mr. Jones, and Mr. Ten Eyck.

The CHAIRMAN. The committee has met this morning to give further consideration to the resolution introduced by Mr. Ward, and I presume the first thing in order is the report of the subcommittee which was appointed at a previous meeting of the committee.

Mr. McLAUGHLIN of Michigan. Mr. Chairman, the subcommittee is not able to report, as we expected to be able to do. We were promised copies of all the papers to be at my office by 10 o'clock this morning. I have waited until this time and they have not been received. I drafted this report with the idea that the papers would be in our hands, and it is so stated in the report. I can tell you what we have done. This report is addressed to the chairman of the committee as follows:

FEBRUARY 3, 1922.

Hon. G. N. HAUGEN,

Chairman Committee on Agriculture, Washington, D. C.

MY DEAR SIR: The Committee on Agriculture, at a meeting held January 18 ultimo, provided for the appointment of a subcommittee for the purpose of asking the Secretary of State to make and deliver to the committee a copy of each and every paper in his office relating to the claim of the American Trading Co. and B. H. Howell & Son Co., as set forth in resolution 78, now pending before this committee; that said subcommittee on the 19th day of January last, in pursuance of instructions, called at the State Department and received the promise of officials thereof in charge of papers relating to the above claim that, as soon as possible, copies of said papers would be made and delivered to your subcommittee; that after the lapse of several days the subcommittee learned by inquiry at the State Department that it had been determined by its officials that because of lack of clerical help the work of making copies of said papers could not be done, the officials of said department making the suggestion that the subcommittee itself look over said papers, indicate those which, in its opinion, have a bearing on above claim, and that copies of papers so designated would be made and furnished; that, in compliance with the suggestion of the department, two members of the subcommittee, Mr. Jacoway and Mr. McLaughlin of Michigan, with another member of the Committee on Agriculture, Mr. Ward, made a careful inspection of all the papers in the department relating to said claim, selected all that related in any way thereto, and copies thereof made by the Department of State are submitted herewith; that at the request of the subcommittee, Hon. Henry P. Fletcher, Undersecretary of State, has written a letter, herewith submitted, to the effect that he has placed in the hands of the subcommittee all papers relating in any way to said claim, and that copies of all papers relating to the case would be made as soon as possible.

Your subcommittee reports further that, owing to his absence from the city of Washington, Mr. Tincher, a member of said subcommittee, was not present with other members thereof when examination of papers relating to the above claim was made.

J. C. McLAUGHLIN.
H. M. JACOWAY.

I expected when I dictated this that the papers would be in my office, but they have not come.

Mr. CLARKE. Mr. McLaughlin, in those papers did you find anything that was particularly pertinent or any new information, in your judgment?

Mr. McLAUGHLIN of Michigan. Just a moment as to that, Mr. Clarke. The subcommittee conceived it to be its duty only to get copies of these papers and not to make any report as to the contents of the papers or their bearing on this claim, leaving that matter entirely to the committee. If the question that you ask comes up before the committee, as one of the committee, I shall be pleased to answer it.

Mr. ASWELL. Are there many papers?

Mr. McLAUGHLIN of Michigan. No, not very many, and I do not see why in the world the State Department did not make the copies in the first instance. They had quite a stack of them, but when we came to look them over we found four, and sometimes five, copies of one paper, making altogether quite a large bundle; but when we selected those that related in any way to this case, there were very few.

Mr. PURNELL. Did you make any memorandum for your own information?

Mr. McLAUGHLIN of Michigan. No.

Mr. PURNELL. Have you in mind the contents of these various documents that might be pertinent to the matter before the committee? If you have, I was going to ask unanimous consent that, in the absence of the committee themselves, Mr. McLaughlin of Michigan be asked to give the committee the benefit of any information he received and any impressions he got from the papers. As far as I am concerned, I am perfectly willing to abide by the statements of the members of the subcommittee in the absence of the papers.

Mr. WARD. I would like to say that the motion that was made and carried was submitted by me, and, as I remember, was to the effect that this subcommittee be appointed, and that they go to the State Department, look at the papers, and report back to the committee as soon as possible, and the date was set as February 3. So I do not see why, in compliance with that motion, which was made and adopted by the committee, the subcommittee should not report what they found out.

Mr. TEN EYCK. Has the subcommittee inquired this morning by telephone as to why the papers have not appeared?

Mr. McLAUGHLIN of Michigan. I talked by telephone late last evening with a Mr. MacEachran. I do not know what his title is, but it is my impression he is an assistant secretary, and he said that the copying of the papers was proceeding as rapidly as possible, and they would be ready for delivery at my office at 10 o'clock this morning. Waiting for those papers made me late at this meeting. The papers will be brought up here as soon as they come in.

Mr. RAINY. If it is agreeable to Mr. McLaughlin, I am in favor of his making a verbal report.

Mr. RIDDICK. We should also hear from Mr. Jacoway, who was another member of the subcommittee.

Mr. PURNELL. I make a motion that we proceed with the verbal statements of the gentlemen who compose the subcommittee, to be followed later by an examination of the papers, if that seems necessary.

(The motion, being duly seconded, prevailed.)

Mr. McLAUGHLIN of Michigan. Mr. Chairman, I dislike very much to make that statement, because while there is very little, in my judgment, in the papers that would lead to a different conclusion, different from the one I have formed myself, there are some things in the papers that some members of this committee might think had a bearing in the other direction. As you know, a number of the papers have already been submitted to this committee. They have been printed in the statement made and submitted by Mr. Franklin. They have been offered in other ways and have been printed in the hearings. This committee is familiar with them. Some of the copies we will receive from the State Department are the same as those we now have. There are others that we will receive that we have not had before. The committee will remember that when this subcommittee was appointed it was suggested that one member, at least, be one who had expressed himself as favorable to this claim and one who had expressed himself as unfavorable, and the other as might be named by the chairman of this committee. I was one who had expressed himself as favorable to the claim, and I will say to you, gentlemen, that after a careful examination of all the papers my opinion as to the validity of this claim has been strengthened, and I am of the opinion that the claim is good and that the resolution ought to be favorably reported.

I find among the papers statements frequently made by the Department of State that these companies are acting as the purchasing agents of the Department of Justice and the Government of the United States.

There is one paper there that quotes Mr. Figg, who at that time was an Assistant Attorney General and had charge of this matter in the Department of Justice. It appears that it was an interview with Mr. Figg, published in one of the newspapers in the United States and republished in one of the newspapers in Buenos Aires, to the effect that the Government of the United

States was not itself buying this sugar, and that the sugar was not the property of the Government of the United States, and that the American Trading Co. was simply acting for, well—we did not see the interview itself, but a reference was made to it.

Mr. WARD. It was a newspaper article.

Mr. McLAUGHLIN of Michigan. Yes; it was a newspaper article to the effect, as I say, that it was not the Government of the United States that was making the purchases. That newspaper article, as I say, was republished in Buenos Aires, and caused quite a commotion, because the Government of Argentina had been led to believe that this purchase was being made by the United States itself, and that conditions by the Argentine Government had been made to our Government, and the charge was made in Argentina that the Government of the United States had not been acting entirely in good faith in the matter. There later appeared something from Mr. Figg, in which he qualifies his original statement, and there are statements in the letters written by the State Department, following the publication of that interview, all to the effect that it was an unfortunate and incorrect statement by Mr. Figg, and that this trading company was acting merely as the purchasing agent of the Government. One of the communications of the State Department uses those very words, that the American Trading Co. was acting merely as the purchasing agent for the Government of the United States.

Mr. TEN EYCK. Was that in answer to this newspaper article?

Mr. McLAUGHLIN of Michigan. Yes; those statements followed the publication of the newspaper article.

Mr. PURNELL. Was there any statement from Figg retracting in any particular the newspaper article among any documents in the files of the State Department?

Mr. McLAUGHLIN of Michigan. Mr. Figg's statement in full, following his first interview, is not published, and it is not set out in the papers in the department, but there are references to it, indicating that Mr. Figg himself qualified his statement, and there are statements by the State Department qualifying Mr. Figg's statement, and putting another light on the actual situation, as the State Department understood it.

Mr. PURNELL. Have you any reason to believe that you were not given an opportunity to see all the papers in connection with the matter?

Mr. McLAUGHLIN of Michigan. I have no reason to believe that any papers were withheld from our subcommittee. There are papers there, and I think we indicated that we wished copies of them, from other companies written some considerable time after this transaction, requesting the Government to assume responsibility for some of their transactions, and to bear some of their losses, and there are replies to the effect that the Government had nothing to do with those other claims, or with these other transactions, and that the only company that they had any dealings with which in any way obligated the Government of the United States was the American Trading Co. That appears by letters written by the State Department in reply to communications from other companies asking that something be done in their behalf. Mr. Jacoway, have I stated that correctly?

Mr. JACOWAY. Yes, sir.

Mr. PURNELL. Over whose signature were the statements to the effect that the American Trading Co. was the only company that had conducted negotiations for and on behalf of the Government?

Mr. McLAUGHLIN of Michigan. I do not remember the signatures. The letters were written by the State Department, and, in fact, there were several signatures. I do not remember that Mr. Colby himself, who was Secretary of State then, made such a statement, because there were a number of papers and a number of different signatures, depending on who was acting at the time in the office of the Secretary of State. There was a Mr. Davis, who seems to have taken Mr. Colby's place when he was not there, and there was somebody else—I do not remember his name, Mr. Jacoway—who wrote letters in the absence of those above him. Do you remember his name?

Mr. JACOWAY. During the Colby administration?

Mr. McLAUGHLIN of Michigan. Yes.

Mr. JACOWAY. The representative of the American Government in Buenos Aires, Mr. Stimpson, and a man by the name of Harris, as I recall.

Mr. PURNELL. What was the occasion for writing the letters denying that any other company had anything to do with the transaction and setting out the *claims of the American Trading Co.*?

Mr. McLAUGHLIN of Michigan. They were letters written in answer to letters received from these other companies.

Mr. WILLIAMS. What was the date of those letters?

Mr. McLAUGHLIN of Michigan. They were subsequent to this entire transaction.

Mr. KINCHELOE. Was that subsequent to the interview of Mr. Figg or the alleged interview in the paper?

Mr. McLAUGHLIN of Michigan. I do not remember the date of Mr. Figg's interview. We did not see the interview. There was a reference to it in correspondence between the two Governments following the publication of that interview or the comments on it by the Argentine papers.

Mr. JACOWAY. Mr. McLaughlin, we saw the interview, but we could not read it, because it was in Spanish, which corroborates your statement.

Mr. PURNELL. How do you know it was an interview?

Mr. JACOWAY. A man down there said it was.

Mr. McLAUGHLIN of Michigan. There was a newspaper clipping printed in Spanish and taken from one of the Buenos Aires papers. It was pasted on another paper or another writing like this. Following that there was a translation, but it was not a translation of Figg's interview. I read that very carefully, and while it related to this matter it did not relate to Mr. Figg's interview.

Mr. JACOWAY. As I understood it, the Figg interview was printed in the Buenos Aires paper in Spanish.

Mr. McLAUGHLIN of Michigan. Yes; but it was not the interview that was cut out of the newspaper and pasted on this sheet of paper, at least the translation of it was not a translation of the article referring to the Figg interview.

Mr. PURNELL. Following the interview which appeared in the Buenos Aires papers, did the Government of Argentina take the matter up with the Government of the United States officially to find out whether or not the American Trading Co. was acting for the Government? Did that bring about any official correspondence between the two Governments?

Mr. McLAUGHLIN of Michigan. Yes; there were reports and there was a letter, too, by some official in Argentina relating to the matter, and there were communications from a Mr. Stimpson, who represented our Government in Argentina, calling the attention of the State Department to the fact that the Argentine Government was displeased and disappointed to learn that the Government of the United States itself was not acting.

Mr. PURNELL. And then following that—

Mr. McLAUGHLIN of Michigan. And following that there were statements from the State Department correcting that.

Mr. PURNELL. And stating officially that the American Trading Co. did represent the Government?

Mr. McLAUGHLIN of Michigan. Represented the Government.

Mr. PURNELL. Do you know who made that statement on behalf of the Government?

Mr. McLAUGHLIN of Michigan. Those letters were not as direct on that point as I would like to have seen, either pro or con. We were not looking for any particular thing. We were looking at the whole proposition; but they were not as direct and positive as we would like to have had them, but there were some pretty strong statements, and the statement was made in one of the communications from our State Department, in these very words, that this trading company was merely the purchasing agent for the Government of the United States.

Mr. KINCHELOE. If I understand you, Mr. McLaughlin, your committee, then, was unable to get even the contents of the Figg interview?

Mr. McLAUGHLIN of Michigan. That is right. We were unable to get even the contents of the Figg interview.

Mr. WARD. That Figg interview had nothing to do with the State Department, but was a newspaper article and was not in any way an official document having any connection with this transaction, any more than if you were to give out a interview to a newspaper that would have nothing to do with what you might say on the floor of the House.

Mr. KINCHELOE. The reason I asked the question was in view of the fact that Mr. Figg negotiated this proposition for and on behalf of the Department of Justice, and I was just wondering what was in that interview he gave.

Mr. WARD. That interview is printed in the papers in Spanish.

Mr. JONES. Was there not some Spanish student in the State Department who could translate that?

Mr. WARD. But even if they did, I do not think that would have any bearing on whether the American Trading Co. was an agent of the United States Government or not.

Mr. McLAUGHLIN of Michigan. When we were looking over those papers—

Mr. WARD (interposing). That newspaper article would not be anything that was official.

Mr. McLAUGHLIN of Michigan. When we were examining the papers and our attention was attracted to this interview of Mr. Figg's we found a paper there with a double column, two-thirds the length of this sheet [indicating], had been cut out of the Buenos Aires newspaper and pasted right on a sheet of paper like this [indicating]. Of course, it was in Spanish and we could not read it. We thought that that was the comment of the Buenos Aires newspaper on Figg's interview. Then followed in typewriting what we thought was a copy of the newspaper article, that was pasted on there, and then followed a translation that we thought when we looked at it would be a translation of the newspaper article commenting on the Figg interview. My recollection is that that translation of that newspaper article did not relate to the Figg interview. It related to some action of their Government and some proceedings in their Congress. I may be wrong about that, and that is why I regret very much the papers are not here.

Mr. WARD. I think if the State Department had thought that the newspaper article carried any weight they would have had a translation of the article.

Mr. TEN EYCK. Do you believe, Mr. McLaughlin, that the denial of the Secretary of State as regards the Figg interview or the newspaper article corroborates the testimony here that the American Trading Co. was the physical agent of the Government in purchasing this sugar?

Mr. McLAUGHLIN of Michigan. That is the general impression I gained from reading all the papers.

Mr. CLARKE. What is your impression, Mr. Jacoway?

Mr. JACOWAY. The same.

Mr. McLAUGHLIN of Michigan. I might say that there was a lot of it that was indefinite and more or less indistinct, and we could not get very well the bearing on the proposition, but the statement is frequently used that the American Trading Co. was the purchasing agent either for the Government or for the Department of Justice, and there is a statement to the effect that the American Trading Co. was merely the purchasing agent for this Government; but as I say, there are statements in some of those papers that might bear another construction and might have a bearing on the other side of the case, and I wish the members might have those papers so that they could read them themselves.

Mr. JONES. Was this interview one of the papers that the committee asked to have sent up here?

Mr. McLAUGHLIN of Michigan. We were not able to get that Figg interview.

Mr. JONES. I mean the one in Spanish. Was that asked to be sent up here?

Mr. McLAUGHLIN of Michigan. I think so.

Mr. WARD. We assume that it has some bearing on the sugar transaction, but as it is in Spanish, we do not know what it is about.

Mr. JONES. If it is sent up here, I can find some one who can translate it.

Mr. WARD. It must have some bearing on the case or it would not have been in those papers.

Mr. RAINY. Mr. Jacoway, can you add any light to the very clear statement made by Mr. McLaughlin?

Mr. JACOWAY. Mr. Chairman and gentlemen of the committee, I do not know that I can add anything to the statement made by Mr. McLaughlin. If I were presenting the matter this morning to a court or to a jury, I would say that assuming that the executive officials of the office of the Attorney General had a right to contract, or had the right to establish the relationship of agent between that department and individuals of the Government, I would say to the committee that, in my judgment, the papers we found in the State Department, supplemented and complemented with the testimony before this committee, show, to my mind at least, that it was the intention of the office of the Attorney General, through its executive heads, to appoint B. H. Howell & Co. and the American Trading Co. its purchasing agents and also its agents for the distribution of this sugar. At that particular time, as I gather from the testimony, the prices of sugar were soaring sky-high in the United States. As *I read the testimony*, there was a compelling desire on the part of the office of

the Attorney General to break the high price of sugar, so that as a result of that endeavor or action the American people would be the beneficiaries. As I construe the testimony, reporting further to this committee, I would say that that object had been reached.

It is the testimony of those who are familiar in detail with the entire history or are acquainted with the record in this case that the American people were the beneficiaries in the low price they had to pay for sugar in an amount, as one witness testified, around \$1,000,000,000.

Reporting further and attempting to employ language that will absolutely reflect the clean, clear-cut facts and reduce my remarks to a bare and leafless pole, I think all the testimony bearing upon this case is probably in the record. I would say that it is in the record, as I view it, and as I recall it, and as I remember it, save and except the testimony in the form of a letter, written as I recall by some official in the State Department, and reading the language of that letter alone and unsupported would leave in the mind of the reader of that letter that probably the writer of that letter left the impression, inferentially if not directly, that B. H. Howell & Co. and the American Trading Co. probably were not the agents of the office of the Attorney General. Now, I say that that letter, read by itself, unsupported and unexplained, would probably cause a casual or an intense reader of that letter to draw the conclusion, probably, that I have mentioned, but offsetting that particular letter and arraying the facts as disclosed by the records that would contravene or traverse that statement are a number of letters from the office of the Attorney General and of the State Department to this effect: That B. H. Howell & Co. and the American Trading Co. have been constituted the agents of the Federal Government to buy this sugar, to bring it to this country, to distribute it among the users in order that the American people might get sugar at a reduced cost, or, in other words, break the market. Now, that is one thing that we found in the records that probably is not in the hearings of the committee.

The other thing we found in the records, so far as I am informed, that has not been brought to the attention of this committee is the purported interview, written in Spanish, by Mr. Figg, who is known to the committee. In that interview some official representative, as I now recall it, of the Buenos Aires Government got the impression that B. H. Howell & Co. and the American Trading Co. were being assisted by the officials of this Government on their individual account and not as agents of the office of the Attorney General.

The testimony I think further discloses peradventure, and I think when you read it you will be irresistibly driven to the conclusion that that was not the intention of Mr. Figg, and that at a later date, as I recall, the first opportunity, he took occasion to correct the erroneous impression that had been created in the minds of the officials connected with the Buenos Aires Government.

Following that up, also, Mr. Stimpson, as I now recall, took occasion as an official of the Government, and representing this Government at Buenos Aires, to correct that statement, and it was corrected, as I now recall, Mr. McLaughlin, in a letter written by him.

Mr. WARD. In a cablegram.

Mr. JACOWAY. So, boiling my remarks down as much as possible, the only pieces of testimony are these two pieces of testimony which I have just mentioned that are not in the record which, in my judgment, are fully explained by other corroborative evidence and by evidence coming from the same source.

I would say to the committee that, in my judgment, after hearing the testimony around this table here and examining the papers in the State Department—and Mr. Fletcher states it is the entire record—my judgment is that there is at least a high moral claim on the part of the Federal Government; and I will go further and say that under the construction of statutes as I understand their construction, great latitude having been given in the construction of statutes in the present day as opposed to their construction in the earlier days, when the courts held that in the construction of a statute you are bound entirely by the reading of the statute, I would say that this would fall—I would not say definitely and conclusively, but almost—within the category of a legal claim.

Mr. PURNELL. I wanted to ask you a moment ago whether you got the impression from the file that following the interview which was purported to have been made by Mr. Figg our Government made an effort to set at rest with the other Government the question of agency.

Mr. JACOWAY. They sought to set at rest this proposition to the extent that the interview of Mr. Figg was erroneous and the Department of State and

the Attorney General were cooperating with B. H. Howell & Co. and the American Trading Co. and with the Buenos Aires Government on the part of the Federal Government to procure this sugar at a low cost.

Mr. PURNELL. In other words, they took notice of the interview and sought an opportunity to correct it?

Mr. JACOWAY. Yes; as reflected in a letter written, as I now recall, by Mr. Stimpson, who was the legal representative of the American Government at Buenos Aires.

Mr. TEN EYCK. From your study of the papers down there and from the fact that this interview was given out, at least the Argentine Government up to that time considered that they were dealing direct with the United States rather than with any other agency as regards this particular sugar.

Mr. JACOWAY. Dealing with the Federal Government through B. H. Howell & Co., and the American Trading Co. as purchasing agents and as distributors.

Mr. TEN EYCK. And they took exception to the fact that it looked as if the Government had fooled them in that respect?

Mr. JACOWAY. I do not know that they took exception, but they took the opportunity to explain, as I recall, very promptly that such was the case.

Mr. JONES. Then, if that be true, it is very evident that this interview which Figg gave out was to the effect that they were not the purchasing agents.

Mr. JACOWAY. Either Mr. Figg gave out an erroneous interview or the man interviewing him translated his intention into language that is erroneous, just like is often done in interviews.

Mr. JONES. Erroneous or not, it was to the effect that they were not the purchasing agents. Either the interview or the interpretation of the interview was to the effect that—

Mr. JACOWAY (interposing). I would not say it was to the effect; I would say that that was the conclusion drawn, which, as Dr. Aswell suggests, Mr. Figg corrected.

Mr. RAINES. If it was an interview given by Mr. Figg, and our State Department and the representatives of our Government tried to explain it away, their attitude would at least make our Government morally responsible for that claim.

Mr. JONES. It would as between this Government and that Government, but it would not necessarily bind them as between this Government and an individual.

Mr. TEN EYCK. Yes; but I do not think this Government would take the position with the Argentine Government that they were buying the sugar with the American Trading Co. as their agents, and then come back here and tell the American Trading Co. that they had misrepresented the case to the Argentine Government and they were not their agents. The United States would not take a dual position in a thing of this sort.

Mr. JONES. Governments do a number of things or there are a number of things done in diplomatic circles to avoid conflicts, and I would like to see the interview and the translation.

The CHAIRMAN. Mr. Jacoway, the Attorney General and Mr. Figg have stated to this committee exactly what the arrangements were.

Mr. JACOWAY. Yes.

The CHAIRMAN. Let me read to you what the Attorney General said:

"Mr. PURNELL. * * * Do you know whether there was any arrangement of any kind made whereby they were to be protected against any loss?

"The ATTORNEY GENERAL. No, sir."

I do not see how he could make his answer any plainer than that and that ought to settle it.

On page 95 we find in the testimony of Mr. Figg that he was asked this question:

"The CHAIRMAN. You claim to base your authority upon this act"—

Having reference to the Sugar Equalization Board act—

"Mr. Figg. I am not basing my authority on the act of the Sugar Equalization Board but upon the President's proclamation transferring the powers of the Food Administration.

"The CHAIRMAN. What authority did that proclamation give you to buy or sell or to guarantee any profits?

"Mr. Figg. We did not at any point have the power to guarantee against loss by that act.

"The CHAIRMAN. Did you have the power to buy?

"Mr. Figg. No; we did not; not as the Department of Justice.

"The CHAIRMAN. Then you agree with Mr. Palmer and Mr. Glasgow that there was no power granted anywhere to purchase or to guarantee against loss?

"Mr. FIGG. I think that is probably true.

"The CHAIRMAN. Did the Government have any power to purchase or to guarantee against loss?

"Mr. FIGG. I think not; no, sir."

I do not see how there could be any question about the arrangement entered into between the department and these people. Then on pages 96 and 97—

Mr. JONES. Mr. Chairman, are you referring to the hearings that were held last summer or the first hearings that were held?

The CHAIRMAN. These are the hearings held in January, 1921:

"The CHAIRMAN. Mr. Figg, you stated you had no intention of buying the sugar.

"Mr. FIGG. That is right."

That is the testimony and I do not think there can be any question about it.

Mr. ASWELL. What power did this Government have to have to refuse to permit them to resell the sugar in Argentina at a certain time?

The CHAIRMAN. I think the answer to that is given in the statement that it would embarrass the Government to buy the sugar and then sell it back to the Government down there at a profit.

Mr. JONES. They had obtained certain unusual concessions for this company, and of course they were not going to let them take advantage of them down there.

Mr. KINCHELOE. Mr. McLaughlin, may I ask you this question: Did you get the impression by reading this correspondence that the State Department limited their activities for and on behalf of the Government to the sugar transaction of Howell & Co. and the Trading Co. only?

Mr. McLAUGHLIN of Michigan. I will answer that in this way: I got the impression that the State Department considers the claim of the American Trading Co. and B. H. Howell Son & Co. in a class by itself, different from the transactions and the claims of any other company.

Mr. KINCHELOE. Did the correspondence make an impression upon you that the State Department, either directly or by innuendo, claimed that the Government was standing behind Howell & Co. and the Trading Co. only, and that they were the only people that the Government was standing behind in all these sugar purchases?

Mr. McLAUGHLIN of Michigan. There is nothing in the correspondence, as I remember it, to the effect that the Government was standing behind these companies or the American Trading Co. and B. H. Howell Son & Co.; nothing to the effect that they were standing behind them or to protect them against loss; but there were frequent statements of this kind, that the American Trading Co. is the purchasing agent for the Government of the United States.

Mr. KINCHELOE. Did you get the impression that the American Trading Co. was the only purchaser that the Government had for the Argentine sugar?

Mr. McLAUGHLIN of Michigan. That is my impression; yes. You understand, of course, this is correspondence with the State Department only.

Mr. KINCHELOE. Yes.

Mr. McLAUGHLIN of Michigan. We have not seen any of the files of the Department of Justice. If there is anything in those files I am entirely in ignorance of them, except as they have been presented to this committee. There is not any doubt in the world but that the State Department represented to the Argentine Government that these purchases by the American Trading Co. were made by and on behalf of our company. There is no doubt in the world that the Argentine Government understood that our Government itself was making these purchases because the concessions were granted to the Government, because the Government made the Argentine Government believe it was acting for itself; that is, that the American Government was acting for itself. There is correspondence, letters written by some officials of the Argentine Government, as to demands made by other governments than ours, like Chile and other governments, the names of which I do not now remember. But they had made requests at least somewhat similar to the request made by our Government, and the Buenos Aires Government had insisted that they must treat all Governments alike; that it would not do for them to grant concessions to the American Government and refuse the same concessions to Chile and other governments.

Mr. KINCHELOE. Do you think it is possible that Figg's interview might be found in the records of the Department of Justice?

Mr. McLAUGHLIN of Michigan. I do not know anything about that. We were asked to get the correspondence in the State Department. As I said at first, I dislike to give my impressions of those papers. I do not want anyone to be misled by them or by what I have said. The impression I gained is that they are indefinite and unsatisfactory. They are not nearly as pointed as I hoped to find them, and I admit that there are some statements in some of those papers which, read by Mr. Haugen and some others who have evidenced opposition to this resolution, might be given another construction. I was hoping that the papers might be here so that everyone could examine them himself, but at the request of the committee, and really against my wishes, I have expressed the impression I gained from these papers. I do not want anybody to be misled. I do not want to withhold anything. I wish you could all see the papers and draw your own conclusions, but you asked for mine and I have given them to you.

Mr. RIDDICK. You say there are letters from other sugar companies or from other people indicating that they wanted to be protected by the Government on sugar purchases. Were there many such requests?

Mr. McLAUGHLIN of Michigan. No; there were not many, and the replies of the State Department were very short and to the effect that the Government did not have anything to do with them.

Mr. ASWELL. That is, the Department of State did not have anything to do with them.

Mr. McLAUGHLIN of Michigan. Yes.

Mr. ASWELL. Because some other companies dealt directly with the Attorney General's office, and the matter did not go through the State Department because the sugar was bought delivered in New York.

Mr. McLAUGHLIN of Michigan. The State Department knew nothing about any other claim.

Mr. TEN EYCK. Mr. McLaughlin, in your study of these papers in the State Department did you come to any conclusion or was there any suggestion there that might lead to a conclusion that if this request had been made to the Argentine Government for an individual that the Argentine Government would have refused to have granted all these concessions for an individual corporation?

Mr. McLAUGHLIN of Michigan. I think that conclusion can be drawn, inasmuch as it clearly appears that the Argentine Government thought it was dealing directly with the Government of the United States and took exception to the situation when it learned of Mr. Figg's interview, which indicated that the Government was not itself directly interested but that these purchases were made by and on behalf and on the responsibility of a private company.

Mr. TEN EYCK. And immediately the United States Government took opportunity to deny that.

Mr. JONES. And did not deny it outright. That is the point he is making. They have made a vague sort of statement about it, as I gather, and I do not see why they did not deny it in so many words if there was no question about it, and say that we are the purchasers and then give that statement out.

Mr. McLAUGHLIN of Michigan. There is a statement, as I said, in one of the letters of the State Department to the effect that the American Trading Co. is acting merely as the agent of the Government of the United States.

Mr. JONES. But then they go ahead and leave it in a sort of nebulous condition.

Mr. McLAUGHLIN of Michigan. It is not as definite and straightforward as I hoped to find it.

Mr. TEN EYCK. But it appeared to be strong enough to continue their belief that the trading company was acting as the Government's agents; in other words, the Argentine Government accepted their explanation with that idea in view. Is that what you gained from the rest of the correspondence?

Mr. McLAUGHLIN of Michigan. Yes; I think so.

Mr. RIDDICK. Mr. Chairman, I think we have gotten the facts and have mulled over this matter until we have all made up our minds as to what we are going to do, and I suggest that we have a motion and settle this matter, because it is nearly 12 o'clock now.

Mr. WARD. I would like to submit a motion.

Mr. JONES. Mr. Chairman, if they are going to send up these papers it seems to me we might wait until they are received.

Mr. WARD. Those papers are accessible to any member of the committee at any time. Mr. Fletcher said that, and said that he had nothing to withhold and was willing to give everything he could to any of us at any time.

Mr. JONES. As I understand it, they will be sent up here to-day.

Mr. WARD. I submitted the motion for the appointment of this subcommittee to go down to the State Department and examine these papers, and there was not anything in the motion about bringing the papers here.

Mr. Chairman, I move that S. J. Res. 12, which is a similar Senate resolution to the House resolution which I introduced, and which has passed the Senate, be reported out of this committee, and that the committee authorize me to use every parliamentary means to bring about the passage of the resolution.

Mr. CLARKE. I second the motion.

The CHAIRMAN. What about the publishing of these letters? Will you leave that to the discretion of the subcommittee, after conferring with the department, as to what shall be printed in the record?

Mr. McLAUGHLIN of Michigan. Following our talk with Mr. Fletcher, the Undersecretary, I think we ought to refrain from publishing that correspondence until we submit it to him and have his approval for the publication of it.

Mr. PURNELL. I would like to ask you, Mr. Ward, if it is your intention that reasonable time shall be given to debate this matter on the floor?

Mr. WARD. Absolutely; the more it is debated the stronger the case gets.

Mr. PURNELL. I think I have had as much to do, perhaps, as any other Member in keeping it out of the House. I did so for the reason that I felt we had not received all the testimony or that there were facts we had not received. I do not want to continue to be a party to a plan to deprive anybody of money that the Government rightfully owes, and I am going to vote to report this bill to the House, with the understanding that ample time is to be given for debate, and in the meantime I am going to reserve the right to oppose it on the floor if I feel so disposed, but I think, as a member of this committee, I have gotten everything I am able to get and I think it is time we gave the membership of the House the right to hear it and determine it.

Mr. McLAUGHLIN of Nebraska. Like Mr. Purnell, I also have acted from time to time in such manner as to delay the consideration of this resolution by the House. I did so for the reason that it was represented, regularly, by some persons that there was something that was being held back; that there was something hazy, and if I might use the word, suspicious, about the transaction, and that later something would be disclosed. I wanted all the evidence and testimony in the record, and have taken an attitude of delay up to this time, but to my mind the efforts that have been made to bring in contrary testimony to the claims of the resolution have utterly failed. Nothing has been disclosed that would indicate that the transactions were not straightforward and above-board, and that these people were acting as the agents of the Government throughout, and having all the testimony in the record, having the opinion of two Attorneys General and two Secretaries of State, and those serving under them, to the effect that it is a moral obligation on the part of the Government, I can do nothing else than to vote for the reporting of the resolution, and unless something is disclosed to the contrary between now and the time it is considered by the House, I shall support it on the floor of the House.

The CHAIRMAN. I have no desire to delay the proceedings. I voted against the proposition before and signed the minority report, and I am not entirely clear in my mind that I would be justified in supporting the bill. I want to make the same reservation to vote against the bill and join in a minority report if one is made. I would also like to go over all the hearings and in as much as there seems to be some question as to the clearness of the correspondence in the State Department, I would like to go over it or at least part of it before I decided definitely what I shall do in the matter.

(The motion, having been duly seconded, prevailed.)

The CHAIRMAN. As I understand it, it is understood that reasonable time will be given in which to file a minority report, if that is desired.

Mr. KINCHELOE. Did not Mr. Tincher include that in his request the other day?

Mr. WARD. Yes.



DE RONDE SUGAR RESOLUTION

HEARINGS

BEFORE THE

COMMITTEE ON AGRICULTURE

U.S. Congress
HOUSE OF REPRESENTATIVES

SIXTY-SEVENTH CONGRESS

SECOND SESSION

JANUARY 20 AND 21 AND FEBRUARY 3, 1922

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COMMITTEE ON AGRICULTURE.

HOUSE OF REPRESENTATIVES.

SIXTY-SEVENTH CONGRESS, SECOND SESSION.

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DE RONDE SUGAR RESOLUTION.

COMMITTEE ON AGRICULTURE,
HOUSE OF REPRESENTATIVES,

Friday, January 20, 1922.

The committee met at 10 o'clock a. m., Hon. Gilbert N. Haugen (chairman) presiding.

There were present: Mr. Haugen, Mr. McLaughlin of Michigan, Mr. Ward, Mr. Purnell, Mr. Voigt, Mr. McLaughlin of Nebraska, Mr. Riddick, Mr. Tincher, Mr. Williams, Mr. Sinclair, Mr. Hays, Mr. Thompson, Mr. Gernerd, Mr. Clague, Mr. Clarke, Mr. Jacoway, Mr. Rainey, Mr. Aswell, Mr. Kincheloe, Mr. Jones, and Mr. Ten Eyck.

The CHAIRMAN. You may proceed, Mr. De Ronde.

**STATEMENT OF MR. FRANK S. DE RONDE, VICE PRESIDENT OF
P. DE RONDE & CO. (INC.), 39 BROADWAY, NEW YORK CITY,
N. Y.**

Mr. DE RONDE. Mr. Chairman and members of the committee, my name is Frank S. De Ronde; I am vice president of P. De Ronde & Co. (Inc.), 39 Broadway, New York.

With your permission, Mr. Chairman, if the committee will agree, I should like to read a statement—a sworn statement, by the way—of my partner, Mr. Philip De Ronde, and I would be obliged if the committee would permit me to read this statement in full before asking any questions, so that I may complete it in its entirety.

Mr. ASWELL. Are you a lawyer, Mr. De Ronde?

Mr. DE RONDE. I am not; no, sir.

The CHAIRMAN. You may proceed.

Mr. DE RONDE. This is a statement made by Mr. P. De Ronde, president of P. De Ronde & Co.

Mr. PURNELL. Mr. De Ronde, let me ask you a question before you start reading that. Is that the same Philip De Ronde who testified before the Senate committee?

Mr. DE RONDE. Yes, sir. [Reading:]

"In the latter part of May, 1920, Mr. Armin W. Riley, Special Assistant Attorney General of the United States, who was then located in New York, came to me with a request that my company purchase Argentine sugar for importation into the United States as an aid to the efforts being made by the Department of Justice to reduce the price of sugar in this country. He told me that the department was being flooded with urgent appeals to take some action for immediate relief of consumers, and greatly feared that the high prices of sugar would seriously interfere with the canning and preserving of the vegetable and fruit crops of the country; that notwithstanding the threatened prosecution of those who were believed to be profiteering the price of sugar was advancing very rapidly, and the department felt that there was actually a great shortage in the United States, and believed that the only effective way to meet the situation was to increase the supply. He further told me that the Department of Justice had learned of a substantial quantity of sugar in Argentina, but there was an embargo against exporting it, and the department was taking steps to procure the lifting of the embargo. I told Mr. Riley that the Oriental Navigation Co., of which I was also president, operated freight steamships from Argentina to the United States, and perhaps one of its boats might be available to bring sugar as a return cargo, but that I knew nothing about sugar, had never dealt in it in this country or elsewhere, knew nothing of the customs of the trade or the handling or marketing of sugar, and I did not see how his proposition could interest me.

"A week or so later, and in the early part of June, Mr. Riley came to me at the Whitehall Club in New York. He then told me he had been placed in entire charge of sugar matters for the Department of Justice; that conditions in this country were getting very critical; and that the department was arranging to bring Argentine sugar here. He told me that the department had completed arrangements with another company under which that company had agreed to import some Argentine sugar; that the department was to supply the distributors of the sugar, and the company which undertook the importation was to receive 1 cent per pound in consideration of its purchasing the sugar and bringing it here. I then told Mr. Riley that I might be interested in that kind of a proposition; that one of the Oriental Navigation Co.'s steamships was then on its way to Argentina and might be made available for a shipment, but the business would require the outlay of a considerable sum of money, and the limitation of 1 cent per pound profit on the transaction was only approximately 5 per cent on the money invested, but that I was not so much interested in the profit as I was in being assured that the sugar would be taken off my hands when it arrived, as I had no means of disposing of it. Mr. Riley told me I need not have any fear on that point. He said the life of everyone in the department was being made unbearable by the large number of applicants for sugar, and that if I would get the sugar here he would take entire charge of its distribution and supply all the customers needed at a price not exceeding 1 cent per pound over the cost. I then told him that under those circumstances I would undertake the business and asked him how much I should buy. He said, 'All you can get.' I then went to the Argentine Chamber of Commerce in New York to get some information about exporting sugar from Argentina. They told me of the lifting of the embargo and something of the conditions that were imposed, but said that those conditions did not concern me, since they would have to be carried out by the people from whom I bought.

"The decree lifting the embargo is as follows:

"ACTS OF THE EXECUTIVE POWER, MINISTRY OF HACIENDA, PERMISSION FOR EXPORTATION OF 100,000 TONS OF SUGAR.

"BUENOS AIRES, May 22, 1920.

"The executive power of the nation, in general agreement with the ministers, decrees:

"ARTICLE 1. Under the conditions hereinafter set forth and up to the quantity of 100,000 tons, the exportation of sugar is authorized for the period of 90 days.

"ART. 2. Every exporter shall address himself to the Minister of Hacienda, soliciting the respective permission, which shall be accompanied by a detailed note giving quantity, class, and location of the product which it is proposed to export.

"ART. 3. The permit shall only be granted when verification of the conditions set forth by the petitioner has been made by the officers of the Internal Revenue Department.

"ART. 4. The petitioner shall also submit vouchers in the case showing that he has deposited to the order of the Ministry of Hacienda a quantity of refined sugar—pilet type—equivalent to 30 per cent of each lot. All expenses, losses, and wastage or damage shall be for exclusive account of the depositor.

"ART. 5. The executive power in the case that during the 90 days the retail sale price of sugar in the consuming markets of the Republic shall rise above that of 4.60 per 10 kilos for granulated white sugar and 5.50 per 10 kilos for refined sugar—pilet type—shall deny all further export permits and shall proceed to the immediate sale, in the form which he may consider most convenient, of all the sugar deposited to his order by the exporters in guarantee of the stability of the price. Should this situation become a fact the executive power shall allow the depositors as sale price that of 4.10 per 10 kilos of the net product resulting at the time the guaranty is made effective.

"ART. 6. The exportation of sugar shall be subject to all the dispositions and customhouse duties in force in accordance with the respective laws and regulations.

"ART. 7. If during the 90 days fixed the quotations should not rise above that of the prices fixed in article 4 the exporters may dispose freely of the lots deposited as guaranty. Likewise during the course of the 90 days the ministry of Hacienda may permit the exchange of any one lot for another of the same quality and quantity when verification has been made by the respective offices.

“ ‘ ART. 8. To be communicated, published, etc.

“ ‘ IRIGOYEN.

“ ‘ JULIO MORENO.

“ ‘ D. E. SALABERRY.

“ ‘ ALFREDO DEMARCHI.

“ ‘ R. GOMEZ.

“ ‘ P. TORELLO.

“ ‘ J. S. SALINES.

“ ‘ H. PUEYBREDON.

“ I then cabled our Buenos Aires representative to ascertain what sugar they could purchase, and at what price. This table was sent on June 16, 1920. I received their reply on June 17 as follows:

“ ‘ JUNE 17, 1920.

“ ‘ DE RONDE,

“ ‘ New York:

“ ‘ Could probably offer you 5,000 tons white granulated sugar, shipment July, \$45 American gold 100 kilograms c. i. f. New York. Rush reply.

“ ‘ LLOYD AMERICANO.

“ To this we replied as follows:

“ ‘ JUNE 17, 1920.

“ ‘ LLOYD AMERICANO,

“ ‘ Buenos Aires:

“ ‘ Replying your telegram sugar, we can do business at \$43. Reply is urgent.

“ ‘ DE RONDE.

“ On June 19 I received the following cable:

“ ‘ JUNE 17, 1920.

“ ‘ DE RONDE,

“ ‘ New York:

“ ‘ Sugar closed, 3,000 tons \$43 c. i. f. New York, shipment July steamship *Willimantic*. Freight \$13. Please open credit Lloyd Americano. Will close further 2,000 Monday. Please confirm immediately. Chance to secure further 5,000 tons shipment July provided you can improve price. All sugar is 99 degree plus. Please try protect our commission one-quarter per cent.

“ ‘ LLOYD AMERICANO.

“ To this I replied as follows:

“ ‘ JUNE 19, 1920.

“ ‘ LLOYD AMERICANO,

“ ‘ Buenos Aires:

“ ‘ We confirm 3,000 tons sugar at \$43 steamship *Willimantic*. We will open credit next week. Can not improve price for further parcels, and can not include any commission for you. Sale made c. i. f. basis before anything said about commission.

“ ‘ DE RONDE.

“ On June 21, 1920, we received the following cable:

“ ‘ JUNE 21, 1920.

“ ‘ DE RONDE,

“ ‘ New York:

“ ‘ Closed further 2,000 tons sugar \$43 c. i. f. New York shipment July. Will load, full cargo, *Willimantic*.

“ ‘ LLOYD AMERICANO.

“ Immediately thereafter I arranged with the Bankers Trust Co., Empire Trust Co., Mechanics & Metals National Bank, and Mercantile Trust Co., all of New York City, to establish letters of credit to the amount of \$2,200,000 in Buenos Aires to cover the total purchase price of the sugar.

“ Our Buenos Aires agents purchased this sugar from S. Staropolski and P. A. Hardcastle, who had previously obtained certificates of compliance with the provisions of the Argentine decree of May 22, 1920. Translations of these certificates are appended hereto as Exhibits 1 and 2.

“ In the early part of July the price of sugar began to fall off gradually, and I called on Mr. Riley at his office in New York, spoke of the falling prices, told him I thought we were going to have trouble selling our sugar, and since it had not yet left Argentina and the price was firmer down there, I wanted to resell there. He said he could not permit me to do so, that we had purchased this sugar for the specific purpose of bringing it to the United States to aid the Department of Justice in reducing prices, and that he would insist on

carrying out the bargain. He said there was no let-up in the demand for sugar, that he wanted that sugar for the canning and preserving trade, and told me I must bring it along as fast as I could."

Mr. CLARKE. May I interrupt you right there? Have you any exhibits here of correspondence confirming this conversation Mr. Riley had with you?

Mr. DE RONDE. I have Mr. Riley's letter confirming it.

Mr. CLARKE. And ordering you to do this?

Mr. DE RONDE. Yes, sir. I beg your pardon; let me correct that, Mr. Clarke. Not ordering us to do it. All our transactions with Mr. Riley were verbal, which Mr. Riley later on confirmed in a letter which you will see here later on. [Continuing reading:]

"I asked him how we could find any buyers for the sugar if the price in the United States should go below our cost. He said we need not fear that. He was sure that the present decline was only temporary and probably due to the exaggerated estimates of the amount of sugar to be imported from Argentina, and when it became known what a comparatively small amount was coming the American prices would immediately go up again.

"The steamship *Willimantic* of the Oriental Navigation Co. sailed from Buenos Aires about July 29, 1920, with the 5,000 tons of sugar which my company had procured as the principal part of her cargo. The vessel was unable to sail earlier because the sugar came from various localities, and while the first loadings were made on July 5, a large part of the shipment arrived at the ship between the 22d and 28th of July. I append hereto a statement showing the dates of loading which was forwarded to me at the time. (Exhibit 3.) She arrived in New York August 25, 1920. Shortly before her arrival I called on Mr. Riley, told him that we expected the steamship within a few days, at which time I would be ready for his list of customers to whom the sugar was to be delivered. Mr. Riley then told me that he did not know what he was going to do, that the price of sugar had continued to go down, and he was unable to get anyone to distribute our sugar or any customers for it. I reminded him that in July he had prevented my reselling in Argentina when I would have had no loss and insisted on my bringing the sugar here; that now I must insist on his taking the sugar off my hands.

"My company did not have any license to trade in sugar, as required at that time under the regulations of the Department of Justice. We were to be importers only, not dealers. I recalled to him that I had declined to entertain the proposition at all until he had assured me he would supply the distributors or customers, and I insisted that he carry out that part of the agreement. I told him that if I had been acting for myself I would have resold immediately upon making the purchase, at which time there was no difficulty in selling sugar 'to arrive' and I could have had an open market without limitation by the department, and there would have been no risk in the transaction. I even suggested that we leave the sugar on the boat and take it back to Argentina on her return trip, as the price was still strong in Argentina and there would probably be less loss in that way than by keeping it here. Mr. Riley told me, however, that I would not be permitted to resell in Argentina; that that matter had already been taken up by the State Department with its representatives at Buenos Aires in connection with some of the other sugar that had been imported for the Department of Justice, but the State Department had been advised that reselling in Argentina would involve serious complications with the Argentine Government. Riley stated that he appreciated the situation fully, but he did not know what could be done. He suggested that we procure the customary license to trade in food products and proceed to market the sugar and work out with the least possible loss. I told him that was not in accordance with our agreement, and I wanted to know what was going to be done about taking care of the loss. He said that he could not help me then as there was no provision in the law nor any appropriation under which the Department of Justice could take care of it, but that we would have to seek relief at some future time and in whatever way was thought best.

"We then applied to the Attorney General for a license, which was issued on August 25, 1920. (Exhibit 4.)

"Shortly after this I was forced to take a long vacation on account of my health and was not at business until October, 1920. After I got back to business I set out to find a means of securing redress and reimbursement of the loss my company had suffered. I requested my associate, Mr. Frank De Ronde, to go to Washington in January, 1921, for this purpose. During his investigation he learned of the resolution pending before Congress for relief of the

American Trading Co. That was the first suggestion regarding procedure that had come to me. I kept track of the proceedings on the American Trading Co. bill, but it was then too late in the congressional session to expect to secure the passage of a bill covering our case.

"I have now caused a resolution to be introduced in Congress authorizing the President to direct the United States Sugar Equalization Board (Inc.) to take over this transaction and to state an account of our loss and assume the burden.

"Before this resolution was introduced I asked Mr. Armin W. Riley to send me a memorandum of his understanding of the agreement made between the Department of Justice and P. De Ronde & Co. (Inc.). A copy of his letter is appended hereto (Exhibit 5) as is also a copy of a letter sent by Mr. Attorney General Palmer to Senator Moses, setting forth his opinion of our claim (Exhibit 6).

"The following statement is an approximate estimate of the loss which we have sustained subject to final auditing of the account and depending on the price obtained for the 1,000 tons still on hand:

"STATEMENT.

"APRIL 4, 1921.

5,000 tons (2,240 pounds), equivalent to 11,200,000 pounds at 19½ cents per pound c. i. f. New York	\$2,149,694.55
Sold 4,000 tons, equivalent to 8,960,000 pounds	514,575.00
	1,635,119.55
Storage, interest, and other charges	178,625.59
	1,813,745.14
On hand 1,000 tons, equivalent to 2,240,000 pounds, at 7½ cents per pound	168,000.00
	1,645,745.14

"PH. DE RONDE.

"Sworn and subscribed to before me this 12th day of September, 1921.

"JAMES F. GILL,
"Notary Public, Nassau County.

"Certificate filed in New York County, No. 186, New York County register's No. 2136. Term expires March 30, 1922."

Mr. PURNELL. What does c. i. f. mean, Mr. De Ronde?

Mr. DE RONDE. That means cost of freight and insurance, sir.

Unless the committee desires it, I will not take the time to read this letter to Senator Moses from the Attorney General and the letter of Mr. Riley. You already have them before you and I think several of you have already read them.

Mr. TINCHER. I think in order to make your statement complete, I would read the letters or at least put in the record here the letters of Mr. Riley and Mr. Palmer.

Mr. DE RONDE. I will submit this entire memorandum for the record then.

Mr. PURNELL. I assume Mr. De Ronde wants to put this entire pamphlet in the record.

Mr. DE RONDE. Yes; I would ask the committee to allow me to put in the record this entire pamphlet. The matter is rather voluminous and I do not care to take the time of the committee to read it all unless they want me to do so.

The CHAIRMAN. Do you request that it be inserted in the record?

Mr. DE RONDE. I do; yes, sir.

The CHAIRMAN. Without objection, it will be so ordered.

(The balance of the pamphlet referred to by Mr. De Ronde, is as follows:)

EXHIBIT 1.

[Translation from Spanish.]

BUENOS AIRES, June 12, 1920.

In view of the request of Mr. S. Staropolski, in which he asked for permission to export granulated sugar on basis of the terms established by the agreement of May 22 last, and

Whereas it has been proven and ascertained by the administration of the internal revenue that the petitioner has warehoused and on the way the amount of 3,354,120 kilos of granulated sugar and the amount of refined pilet sugar equivalent to the 30 per cent constituting the guarantee deposit;

Whereas the requirements stipulated by the agreement of May 22 have been complied with, the request is to be acceded to; and it is therefore

Resolved, To authorize Mr. S. Staropolski to export through the custom-house of this Capitol City 3,354,120 kilos of granulated sugar.

The concessionary must confirm and ratify in the statement executed before the general administration of internal revenues that 1,006,232 kilos of refined pilet sugar are deposited or warehoused to the order of this ministry, in accordance with the terms of article 4 of the agreement of May 22, of the present year.

This is to be communicated to the petitioner and duly stamped and must be forwarded to the general administration of internal revenues for the purposes indicated above; after the foregoing has been attended to, it must be returned for filing.

SALABERRY.

This is a copy of the decision No. 518 registered under file No. 2180, letter S. and is issued upon the request of the interested party in Buenos Aires on the 12th day of June, of the year and date stated on the seal.

C. F. SOAREZ.

EXHIBIT 2.

[Translation from Spanish.]

BUENOS AIRES, June 4, 1920.

In view of the request of Mr. P. A. Hardcastle, in which he petitions for the issuance of a permit to export sugar in accordance with the terms stipulated in the agreement of May 22 last; and

Whereas it has been duly proven and ascertained by the general administration of the internal revenue that the petitioner has deposited or warehoused at several places 8,429,345 kilos of granulated sugar and 1,346,660 kilos of pilet sugar, as also the quantity equivalent to the 30 per cent which should serve as a guarantee;

Whereas the requirements stipulated in the agreement of May 22 last have been complied with, the petition is to be granted: And it is therefore

Resolved, To authorize Mr. P. A. Hardcastle to export through the custom-house of this capital city 8,419,345 kilos of granulated sugar and 1,304,660 kilos of refined sugar, pilet type. The concessionnaires are requested to ratify the declaration made to the general administration of the internal revenue to the effect that 2,917,201 kilos of pilet sugar are deposited or warehoused to the order of this ministry in accordance with the terms of article 4 of the agreement of May 22 last.

Let this be communicated, duly stamped and submitted to the general administration of internal revenue for the purposes mentioned above. After this has been attended to return same for filing.

SALABERRY.

This is a copy of the decision No. 487 registered under file No. 2181, letter H, of the year and of the date appearing on the stamp, and this copy is issued upon request of the interested party in Buenos Aires on the 15th day of June, 1920.

C. F. SOAREZ.

EXHIBIT 3.

Granulated sugar unrefined and refined shipped by steamship "Willimantic"
July 29, 1920.

HOLD NO. I.

Date.	Marks.	Produced or refined by—	Bags.	Date.	Marks.	Produced or refined by—	Bags.
July 6	S. S.....	Ingenio Lujan, 1920...	2,172	July 22	P. A. H.	Bella Vista, 1920.....	450
6	S. S.....	Ingenio Leach, 1919...	282	23	S. S.....	Ing. Sta. Lucia, 1920...	150
5	S. S.....	Ingenio Lujan, 1920...	845	23	P. A. H.	Ing. Bella Vista, 1920...	299
7	S. S.....	Ingenio Amalia, 1920...	1,025	23	P. A. H.	Refiner, Argent., 1919...	594
8	S. S.....	.....do.....	1,881	23	P. A. H.	.....do.....	739
8	S. S.....	Ingenio Lujan, 1920...	393	23	P. A. H.	Ingenio Sta. Pablo, 1919.	632
21	S. S.....	Ingenio Sta. Lucia, 1920.	515	23	P. A. H.	Ingenio Esperanza, 1919.	628
21	S. S.....	Ingenio Los Ralos, 1920.	669	23	P. A. H.	Ingenio Concepcion, 1920.	886
22	P. A. H.	Ingenio S. Pablo, 1919	1,129	24	P. A. H.	Ingenio San Jose, 1920	60
22	P. A. H.	Ingenio Esperanza, 1919.	542				
22	P. A. H.	Refiner, Argent., 1919	1,797			Total.....	15,698

HOLD NO. II.

July 5	S. S.....	Ingenio Lujan, 1920...	980	July 22	S. S.....	Ingenio Amalia, 1920...	425
8	S. S.....	Ingenio Amalia, 1920...	2,133	23	S. S.....	.....do.....	200
10	S. S.....	.....do.....	1,615	23	S. S.....	Ingenio Sta. Lucia, 1920...	222
13	S. S.....	.....do.....	712	23	S. S.....	Ingenio Los Ralos, 1920...	390
15	S. S.....	.....do.....	891	23	S. S.....	Ingenio Ledesma, 1919...	215
15	S. S.....	Ingenio Ledesma, 1920	1,498	23	S. S.....	.....do.....	493
16	S. S.....	Ingenio Amalia, 1920...	2,283	23	S. S.....	Ingenio Sta. Lucia, 1920...	190
16	S. S.....	Ingenio Ledesma, 1920	215	27	S. S.....	Ingenio Aguilares, 1920...	40
19	S. S.....	.....do.....	69	27	S. S.....	Ingenio Amalia, 1920...	75
19	S. S.....	Ingenio Amalia, 1920...	1,180	27	S. S.....	.....do.....	1,095
21	S. S.....	.....do.....	105	27	S. S.....	Ingenio Lujan, 1920...	162
21	S. S.....	Ingenio Sta. Lucia, 1920.	715	27	S. S.....	Ingenio Corona, 1920...	225
21	S. S.....	Ingenio Aguilares, 1920.	951	28	S. S.....	Ingenio Aguilares, 1920...	310
20	S. S.....	Ingenio Manantial, 1920.	140	28	S. S.....	Ingenio Lujan, 1920...	60
22	S. S.....	Ingenio Sta. Lucia, 1920.	110	28	S. S.....	Ingenio Aguilares, 1920...	65
22	S. S.....	Ingenio Los Ralos, 1920.	570	28	S. S.....	Ingenio Sta. Lucia, 1919...	360
22	S. S.....	Ingenio Sta. Isidro, 1920.	314	28	S. S.....	Ingenio Sta. Rosa, 1920...	225
22	S. S.....	Ingenio San Jose, 1920	210			Total.....	23,096
	S. S.....	Ingenio Manantial, 1920.	180				

HOLD NO. III.

July 14	S. S.....	Ingenio Amalia, 1920...	504	July 23	S. S.....	Ingenio Santa Lucia, 19.0.	48
15	P. A. H.	Ingenio Sta. Rosa, 1920.	109	23	S. S.....	Ingenio Los Ralos, 19.0.	69
15	P. A. H.	Ingenio Concepcion, 1920.	450	23	S. S.....	Ingenio Amalia, 1920...	425
15	P. A. H.	Ingenio San Jose, 1920	940	23	S. S.....	Ingenio San Jose, 1920...	430
16	P. A. H.	.....do.....	493	23	S. S.....	Ingenio Ledesma, 1919...	645
16	P. A. H.	Ingenio Amalia, 1920...	500	24	S. S.....	Ingenio Santa Lucia, 1920...	220
16	P. A. H.	Ingenio Cruz Alta, 1920.	1,272	24	S. S.....	Ingenio San Jose, 1920	205
16	P. A. H.	Ingenio Santa Rosa, 1920.	91	24	S. S.....	Ingenio Cruz Alta, 1920.	4
16	P. A. H.	Ingenio Corona, 1920...	860	24	S. S.....	Ingenio Providencia, 1920.	172
17	P. A. H.	Ingenio Esperanza, 1919.	815	24	S. S.....	Ingenio Esperanza, 1920.	599
17	P. A. H.	Ingenio Cruz Alta, 1920.	110	24	S. S.....	.....do.....	220
17	P. A. H.	Ingenio Corona, 1920...	350	24	S. S.....	Ingenio San Antonio, 1920.	220
20	P. A. H.	Refin. Argentina, 1919	1,132	24	S. S.....		
21	P. A. H.	.....do.....	1,104				

Granulated sugar unrefined and refined shipped by steamship "Williamantic"
July 29, 1920—Continued.

HOLD NO. III—Continued.

Date.	Marks.	Produced or refined by—	Bags.	Date.	Marks.	Produced or refined by—	Bags.
July 24	S. S.	Ingenio Mercedes, 1920.	634	July 26	S. S.	Ingenio Ledesma, 1919.	70
24	S. S.	Rofin. Argentina, 1919	80	27	S. S.	do.....	359
24	P. A. H.	Ingenio Esperanza, 1919.	747	27	S. S.	Ingenio Mercedes, 1920.	88
24	P. A. H.	Ingenio San Jose, 1920	585	27	S. S.	Ingenio Providencia, 1920.	172
26	S. S.	Ingenio Esperanza, 1919.	629	27	S. S.	Ingenio Santa Lucia, 1919.	110
26	S. S.	Ingenio Cruz Alta, 1920.	300	28	S. S.	Ingenio Lujan, 1920..	2,275
26	S. S.	Ingenio Santa Rosa, 1920.	50	28	S. S.	Ingenio Ledesma, 1919.	707
26	S. S.	Ingenio Amalia, 1920.	846	28	S. S.	Ingenio Amalia, 1920.	510
26	S. S.	Ingenio Aguilares, 1920.	381	28	S. S.	Ingenio Santa Lucia, 1919.	288
26	S. S.	Ingenio Lujan, 1920..	643	28	S. S.	Ingenio Santa Rosa, 1920.	75
26	S. S.	Ingenio San Isidro, 1920.	57				
26	S. S.	do.....	48			Total	21,420

HOLD NO. IV.

July 8	P. A. H.	Ingenio San Pablo, 1920.	657	July 19	P. A. H.	Ingenio Esperanza, 1919.	2,197
8	P. A. H.	Ingenio San Jose, 1920	390	19	P. A. H.	Ingenio Concepcion, 1920.	421
14	P. A. H.	do.....	170	19	P. A. H.	Ingenio Aguilares, 1920.	240
14	P. A. H.	Ingenio Santa Rosa, 1920.	60	20	P. A. H.	Ingenio Corona, 1920..	70
14	P. A. H.	Ingenio Cruz Alta, 1920.	150	20	P. A. H.	Ingenio Concepcion, 1920.	670
14	P. A. H.	Ingenio Esperanza, 1920.	490	20	P. A. H.	Ingenio Santa Rosa, 1920.	30
14	P. A. H.	Ingenio Corona, 1919..	180	20	P. A. H.	Ingenio Aguilares, 1920.	80
14	P. A. H.	Ingenio San Pablo, 1919.	60	20	P. A. H.	Ingenio San Jose, 1920.	240
14	P. A. H.	Ingenio Leach, 1919..	201	20	P. A. H.	Ingenio Esperanza, 1919.	1,801
14	P. A. H.	Ingenio Santa Lucia, 1919.	558	20	P. A. H.	Rofin. Argentina, 1919	706
17	P. A. H.	Ingenio Corona, 1920..	833	20	P. A. H.	do.....	373
17	P. A. H.	Ingenio San Jose, 1920.	180	21	P. A. H.	Ingenio Esperanza, 1919.	1,182
17	P. A. H.	Ingenio Cruz Alta, 1920.	613	21	P. A. H.		
17	P. A. H.	Ingenio Aguilares, 1920.	240			Total	13,363
17	P. A. H.	Ingenio Concepcion, 1920.	450				
17	P. A. H.	Ingenio Esperanza, 1919.	132				

EXHIBIT 4.

[Not transferable—No. G 172360.]

UNITED STATES OF AMERICA—LICENSE.

License is hereby granted to P. De Ronde & Co. (Inc.), of 39 Broadway, New York City, to engage in and carry on business in foods and feeds in accordance with the proclamation of the President and the regulations prescribed by him, relating to such business, under an act of Congress entitled "An act to provide further for the national security and defense by encouraging the production, conserving the supply, and controlling the distribution of food products and fuel," approved August 10, 1917, or any amendments thereof.

This license is subject at any time to revocation, in whole or in part, or for a limited or unlimited period, for violation by the licensee, or by an officer, agent, or employee of the licensee, of any of the provisions of said act or any amendment thereof, or of said regulations now or hereafter in force.

The licensee is required, whenever called upon by the Attorney General of the United States, or his representative, to furnish information and to make reports concerning his business in such detail as shall be prescribed, and shall keep such records of his business as shall facilitate the verification of information contained in said reports; and all property, books, records, and accounts of the licensee are at all times subject to the inspection of the Attorney General of the United States, or his duly accredited agent or representative.

This license is based upon the statements in licensee's application, on file with the United States Food Administration, Washington, D. C. All changes, such as change in firm or corporate name, new place of business, or changes in or additions to activities, must be reported immediately.

Dated August 25, 1920.

A. MITCHELL PALMER,
Attorney General of the United States.

EXHIBIT 5.

APRIL 15, 1921.

P. DE RONDE & Co. (INC.),
99 Broadway, New York City.

DEAR SIRS: In response to your request for my recollection of the arrangement last summer between you and myself, as representative of the Department of Justice, concerning the importation and distribution of 5,000 tons of Argentine sugar, and the circumstances of the matter, I beg to submit the following memorandum:

In the month of June, 1920, and until about March 3, 1921, I was in the employ of the United States in the Department of Justice as special assistant to the Attorney General, and engaged in the work of the Department of Justice of supervising, directing, and effectuating the enforcement of the provisions of the Lever Food Control Act (act approved Aug. 10, 1917), and in carrying out the powers and authority conferred by the act upon the President, concerning foods and derivative products, and transferred by the President by proclamation, dated November 21, 1919, from the Food Administration to the Attorney General of the United States. The Department of Justice made exhaustive investigations throughout the country concerning the supplies of foodstuffs and other necessities of life on hand, the costs, purchases, and sales thereof, and concerning hoarding and profiteering, and investigated violations of the laws and regulations and arranged for prosecutions thereunder. I was assigned by and represented the Department of Justice in this general work. I had an office in the Department of Justice at Washington and also an office in the old post-office building, borough of Manhattan, city of New York, and represented the Department of Justice in and had charge of such work under the Lever Act in the city of New York. In the discharge of my official duties I was also engaged in this work in several States from time to time.

In the period from May, 1920, and throughout the summer, I was especially engaged in endeavoring to relieve the critical condition of the sugar market in the United States in investigating any hoarding or profiteering, and general transactions in the purchases and sale of sugar, the Attorney General having designated me as his representative in full charge of all sugar matters, including issuance and revocation of sugar licenses, without which licenses it was impossible to legally deal in sugar.

In the winter of 1919, the price of sugar in the United States rose until in May, 1920, it was at a very high figure, and apparently was going still higher. The Government was very much interested in the importation of any sugar which would relieve the shortage and break the high prices. About May, 1920, information was brought to the Department of Justice that there was a quantity of sugar in Argentina which might be imported to the United States at a price considerably below the then prevailing market price, which ranged around 23 or 25 cents per pound, and with a tendency to go higher. Certain importers approached the Department of Justice at that time requesting governmental assistance through it and the Department of State in securing permission of the Argentine Government for exportation of some of this sugar, and agreed if they were thus enabled to bring the sugar to this country by the lifting of the Argentine embargo against export, to co-operate with the Department of Justice in the distribution of the sugar at prices and to consumers approved by the Department of Justice.

I was informed about this time by Mr. Howard Figg, then also employed in the Department of Justice as a special assistant to the Attorney General, and

engaged in work under the Lever Act, that the Department of Justice had asked the Department of State to request the Argentine Government to permit the export of a part of this stock of sugar to the United States, and that it was expected the permit would be granted, and that thus it would be possible to purchase Argentine sugar and bring it to the United States to relieve the critical condition of the sugar market in this country.

On or about May 22, 1920, the Argentine Government granted permission to export the sugar, but there was some delay in the effectuation of this permit. The permit to export the sugar continued until August 1, 1920. In the discharge of my official duties as representative of the Department of Justice I was greatly interested in the importation of this sugar from the Argentine, in order to relieve the shortage and break the high prices of that commodity in the United States. But, in addition to actually getting the sugar here, I was further and especially interested and engaged in supervising prices and regulating the method of distribution to householders, canners, preservers, and essential industries.

To effectuate a reduction in price and an increase in quantity of sugar in the United States, I requested representatives of the importers to meet me at my office in New York. This meeting was held, and at that time I urged them to make every effort to import sugar. I appealed to them as a patriotic duty to do everything in increase the supply of sugar. Immediately thereafter (early in June, 1920) Mr. Philip De Ronde, president of the P. De Ronde & Co. (Inc.), of 39 Broadway, New York City, with whom I had been acquainted and in whom I had every confidence, having known him to have been an officer in the United States Navy during the war, had a conference with me. I informed Mr. De Ronde of the critical necessity of increasing the available supply of sugar, and discussed with him the limited lifting of the Argentine embargo. Mr. De Ronde was not in the sugar business, but was a controlling factor in steamship companies, and one of his boats at this time was in the Argentine.

Because of our arrangement hereinafter mentioned, I had personal knowledge of the importation by P. De Ronde & Co. (Inc.), of 5,000 tons of this sugar, made available for export by the Argentine Government, and I was informed that American Trading Corporation imported about 14,000 tons.

We discussed Mr. De Ronde's companies aiding the Department of Justice in bringing into the United States a shipment of the Argentine sugar, which our Government had had released for export by the Argentine authorities, and for distribution at the prices and to such consumers as would be approved by the Department of Justice in this administration of food control under the Lever Act, and the various authorities conferred upon the Attorney General. Mr. De Ronde informed me that his company would be in a position, if the Government desired, to import about 5,000 tons of white granulated sugar, and asked under what conditions the Government would authorize and desire this importation and his participation in the work for the Department of Justice. I told Mr. De Ronde that the Government's concern was in securing this sugar from the Argentine to add to the supply in the United States, to reduce the price, and to distribute sugar to essential users, and that the Department of Justice would approve and desire that Mr. De Ronde's company take up the importation of the 5,000 tons from the Argentine under the conditions, as to price and distribution, wh'ch the Department of Justice would indicate.

I then specified these conditions and informed Mr. De Ronde that the Department of Justice would greatly desire his company to import this lot of sugar, provided his company would agree not to sell at a price deemed excessive by the Department of Justice, and to distribute the sugar to housekeepers, canners, preservers, and essential users, who would be approved by the Department of Justice, and provided he would refrain from selling the brokers or traders, or allowing the sugar to reach the hands of speculators or others whom the Department of Justice would not approve, and provided he would accept generally the supervision, and obey the directions, of the Department of Justice in the distribution of the sugar upon arrival. Mr. De Ronde suggested that the compensation be limited to a profit not exceeding 5 per cent, which was a little less than 1 cent per pound, and I told Mr. De Ronde that this was quite acceptable to me. Mr. De Ronde then agreed to enter into this arrangement with the Department of Justice and to purchase and bring into the United States the 5,000 tons of sugar from the Argentine upon the above terms, and to follow the directions of the Department of Justice concerning its sales price, channels of distribution, and such other terms as the Department of

Justice might indicate. I told Mr. De Ronde that this arrangement between his company and me, representing the Department of Justice, was then confirmed, and that he should proceed to carry it out. To carry out this agreement in the quickest possible time, Mr. De Ronde discharged such cargo as he had already caused to be loaded on his boat then in Argentine, and filled the boat with 5,000 tons of sugar, which was brought to New York.

There was considerable public notice given to the expected arrival of the sugar from the Argentine, the quantities of which were exaggerated in the press reports, and due to this and other causes, the price of sugar in the United States declined quickly, and before the arrival of the sugar imported by your company from the Argentine the price had fallen below your cost. It was impossible to sell any considerable part of such shipments on a declining market in America, and the Government had expressed its unwillingness that the sugar should be resold in the Argentine, notwithstanding the fact that the sugar could have been disposed of there at a profit. I was powerless to help P. De Ronde & Co. (Inc.) in distributing the sugar, and you informed me that you were obliged to place the sugar in bonded warehouses.

It had been the policy of the Department of Justice to disfavor the continued withholding of sugar as, under the terms of the Lever Act, as then construed, such storing might be a violation of the law and the Department of Justice had adopted the policy of forcing quantities of sugar on the market as long as any shortage existed, irrespective of the market prices, and this was done in many instances. I was unable to indicate to you any purchasers for the sugar or aid you in having it taken off your hands.

In the importation of this sugar and in handling and agreeing to distribute it, P. De Ronde & Co. (Inc.) acted under an arrangement with the Department of Justice, and was cooperating with the department in the effort to reduce the high cost of sugar, to relieve the shortage and to supply this necessary food stuff to the American householder and to the canners, preservers and to the essential industries and users indicated and approved by the Department of Justice.

The activities of the Government produced great relief to the people of the United States in breaking the high prices of sugar and relieving the shortage, and your work performed under the arrangement with the Department of Justice materially helped the department in the general result. As a private agency cooperating with the Department of Justice under this arrangement, you were to receive as compensation a little less than a cent a pound. As the matter eventuated you did not receive even this compensation, but have been let into a big loss. I am convinced that you agreed to this arrangement with the Department of Justice for the doing of this work, and upon such a moderate compensation, to a large extent upon a desire to be of some public service in aiding the Government to meet the then very critical situation in the supply and sale of sugar in the United States.

I am informed that American Trading Corporation and B. H. Howell Son & Co. have presented to the Department of Justice a claim for reimbursement of losses which they claim to have taken in respect of the importation and handling of about 14,000 tons of this Argentine sugar under an arrangement with the Department of Justice, and congressional relief is proposed for them in having the United States Sugar Equalization Board take over and dispose of their sugar. I state emphatically that P. De Ronde & Co. (Inc.) is entitled to such relief as is proposed for American Trading Corporation and B. H. Howell Son & Co. P. De Ronde & Co. (Inc.) was in the same status of a private agency cooperating with a department of the Government, and the circumstances of the two cases are substantially the same. I believe, however, that in the case of P. De Ronde & Co. (Inc.) no profit has been made on any part of its shipment.

Yours, very truly,

A. W. RILEY.

EXHIBIT 6.

APRIL 29, 1921.

Hon. GEORGE H. MOSES,
United States Senate, Washington, D. C.

MY DEAR SENATOR MOSES: I have your letter of the 28th instant in reference to Senator Wadsworth's resolution for the relief of certain sugar importers who were instrumental in bringing in sugar from the Argentine Republic, and inclosing a letter written by Mr. A. W. Riley in reference to the importation of

sugar by P. De Ronde & Co. You ask me to furnish you with whatever corroborative information I have regarding the transaction and particularly to give you my recollection as to Mr. Riley's primary authority in matters of this sort.

During the year 1920 Mr. Riley was a special assistant to the Attorney General, with the duty of supervising and directing the enforcement of the provisions of the Lever Food Control Act. He was the directing head of our so-called "flying squadron" of investigators who in many cities made exhaustive investigation of selling prices of necessary commodities in order to determine whether prosecutions should be brought under said law, and when such prosecutions were brought they were under the direct charge of Mr. Riley.

The situation with reference to sugar was by my direction placed entirely in the hands of Mr. Riley in the spring of 1920, and it became his duty to direct all activities of the department looking to the enforcement of the Lever law with relation to sugar and to relief for the people from the high prices then prevailing. He did not consult me very frequently with reference to details, and I had no information at the time with respect to his conferences with De Ronde & Co., which he outlines in his letter to said firm dated April 15, 1921, which you inclosed to me. On two occasions conferences were held at my office with importers and refiners, which Mr. Riley attended, and his instructions made it necessary for him to have further conferences with such importers in reference to the sugar situation. I did not know of his conferences with P. De Ronde & Co. until recently.

At the time the arrangement was made between Mr. Figg, of our department, and the State Department on the one hand and the American Trading Co. and B. H. Howell Son & Co. on the other, I had no knowledge of that transaction, and yet it was clearly within the jurisdiction and powers of Mr. Figg as then existing in the department. So I can say that while at that time I had no knowledge of the transaction between Mr. Riley, representing our department, and De Ronde & Co., the negotiations and transactions outlined by him in his letter were very clearly within his authority and jurisdiction. I did know, of course, that there was a large quantity of sugar in Argentine which it was desirable to import into this country. I believed then that it would have a very considerable effect in reducing the price of sugar in this country, and I am satisfied now that the publicity given to this proposed importation did have a very considerable effect in bringing the price of sugar down here. You will recall that this also was the opinion of Mr. Zabriskie, of the Sugar Equalization Board.

Therefore I am sure that if I had been advised at the time of the details of these transactions on the part of both Mr. Riley and Mr. Figg, I would have approved of them as being in line with my instructions to use proper effort to secure the importation of such sugar with the idea of breaking the price in this country.

Yours, truly,

A. MITCHELL PALMER.

Mr. McLAUGHLIN of Michigan. Mr. De Ronde, you spoke of letters from Senator Moses to Mr. Palmer and from Mr. Palmer to Senator Moses.

Mr. DE RONDE. I have no letter written by Senator Moses. You will find on page 30 that he wrote a letter apparently to the Attorney General for his opinion. I have not the letter Senator Moses wrote, but he published the former Attorney General's reply to Senator Moses on page 30 of the memorandum which I presented and which is the last thing in the memorandum.

Mr. PURNELL. Where is Mr. Philip De Ronde?

Mr. DE RONDE. Mr. Philip De Ronde is in New York. He is ill.

Mr. PURNELL. And unable to appear before the committee?

Mr. DE RONDE. Yes, sir; he was unable, to-day. He had a very severe operation which has left him in very delicate health, and he is continually suffering from it. He had one of his kidneys and some of his ribs removed.

Mr. PURNELL. Did he conduct all the negotiations on behalf of the firm?

Mr. DE RONDE. He conducted the negotiations with Mr. Riley; yes, sir.

Mr. KINCHELOE. Where is Mr. Riley?

Mr. DE RONDE. Mr. Riley was in New York last week. I could not get in touch with him. He is employed by John Wanamaker and is tied down there pretty hard, and it is hard for him to get away. That letter I have there is sworn to by Mr. Riley.

Mr. PURNELL. Were you present at any of the conversations that were had between Philip De Ronde and Mr. Riley representing the Government?

Mr. DE RONDE. Yes, sir; many of them.

Mr. ASWELL. Have you any connection with the American Sugar Refining Co.?

Mr. DE RONDE. No, sir; we have no connection with any sugar company.

Mr. CLARKE. Were you engaged in any other sugar enterprises during the war period?

Mr. DE RONDE. No, sir; not at this period or any other period. Mr. Clarke. I may tell you how the firm of P. De Ronde & Co. was formed. Mr. Philip De Ronde is a steamship man, and in connection with that business we had many requests to handle merchandising business and that was hampering the steamship business, and therefore we incorporated P. De Ronde & Co. to take care of our friends who wanted us to carry freight and sometimes buy merchandise for them, so that we could import as well.

Mr. ASWELL. What is the main business of your company?

Mr. DE RONDE. Importing. We import from South America hides, skins, etc.

Mr. ASWELL. Do you own any ships of your own?

Mr. DE RONDE. Not P. De Ronde & Co.; no, sir. The Oriental Navigation Co. owns several ships. I may say that this vessel that brought the sugar up here, the *Willimantic*, was not our ship. It is referred to sometimes as an Oriental Co. ship, but it was a Shipping Board vessel which we operated for the Shipping Board; and it has also been stated that we were getting it both ways, that we were going to make a commission on the sugar and a profit on the freight. I appeal to you as business men as to whether a man would go very far to invest \$3,000,000 in order to make two or three thousand dollars on that freight, which was our profit allowed by the Shipping Board, the freight being about \$63,000.

Mr. ASWELL. How much would you have made if the agreement had gone through?

Mr. DE RONDE. We would have made approximately \$100,000, or 5 per cent on the transaction.

Mr. PURNELL. Mr. De Ronde, does it not strike you as being out of the ordinary that at no time in the preliminary negotiations in connection with this deal or the other one, nothing was ever said at any time about any loss that might be sustained?

Mr. DE RONDE. In the light of developments, yes; but at that time, with the country running wild about sugar and with the sugar prices that were being paid, a loss never entered anybody's mind. There did not seem to be in sight anything except higher prices. At that time, I think, sugar was around 26 cents a pound, with indications of its going still h'gher, and everybody believed it was going to be higher, and a loss did not enter anyone's mind.

Mr. PURNELL. How did you expect to distribute the sugar you purchased?

Mr. DE RONDE. We expected Mr. Riley, of the Department of Justice, to distribute it for us, as he agreed.

Mr. PURNELL. In a similar manner to the distribution of the American Trading Co.'s sugar?

Mr. DE RONDE. Practically; yes.

Mr. PURNELL. That is, by having names of purchasers furnished by the Government?

Mr. DE RONDE. Exactly; and in our conversations with Mr. Riley he agreed to furnish us names of essential users that we would be permitted to sell to.

Mr. PURNELL. And you were limited to the same profit of 1 cent a pound?

Mr. DE RONDE. Of 1 cent a pound; yes, sir.

Mr. KINCHELOE. Mr. De Ronde, were there any written negotiations entered into between your company and the Department of Justice about this matter?

Mr. DE RONDE. No, sir; and I may say that that was very largely for the reason that at the time we were not the first ones in this sugar transaction, as you have heard from previous testimony in the other case, and any connection that the Department of Justice might have had with it, which was, as far as I can see, only that of assisting in lifting the embargo, and the embargo had already been lifted, and there was not any reason why we should have any correspondence with the Department of Justice.

Mr. KINCHELOE. I mean as to the question of what you were to receive and what duties you were to perform.

Mr. DE RONDE. There was no correspondence with them about it, for the further reason that Mr. Riley, who at that time was in supreme charge of all

sugar matters, was in New York, but the gentleman who had charge of sugar matters for the other claimant was in Washington, and, naturally, they had correspondence back and forth.

Mr. ASWELL. Did you have any correspondence with the Department of State?

Mr. DE RONDE. No, sir; I thought you said the Department of State a while ago, Mr. Kincheloe, when I made the statement about lifting the embargo.

Mr. KINCHELOE. Did you have any correspondence with any agents of the Government?

Mr. DE RONDE. No, sir; we had no correspondence with any agents of the Government.

Mr. PURNELL. Let me ask you further in connection with the matter I last spoke about, namely, furnishing customers. I notice on page 26 of the statement made by Mr. Riley, in the second paragraph, he says: "I was unable to indicate to you any purchasers for the sugar or aid you in having it taken off your hands."

Mr. DE RONDE. That was after the sugar came in and Mr. Riley found himself facing an unexpected and impossible condition.

Mr. PURNELL. That sentence would indicate to me that perhaps he had not given very serious consideration to the question of furnishing purchasers.

Mr. DE RONDE. I can assure you he did give very serious consideration to it or we would never have gone into it. Neither my partner nor myself knew the first thing about how to sell sugar or how to handle it.

Mr. PURNELL. That might indicate that it was an afterthought.

Mr. DE RONDE. I think not, sir. He assured us in our various talks with him, and it was he who induced us. We did not look for him. He induced us to bring this sugar in and stated that he would furnish us a list of users we could sell to and he would name the price.

Mr. PURNELL. It is your judgment, is it, Mr. De Ronde, that this matter was first presented to you by Mr. Riley?

Mr. DE RONDE. Absolutely.

Mr. PURNELL. And you had no knowledge of it from any other source?

Mr. DE RONDE. No, sir. We had a general knowledge. Months previously it was intimated to us by some friends of ours in Buenos Aires that there might be some sugar and other commodities we might import. We told them we were not interested in importing anything at that time.

Mr. PURNELL. Did you know the embargo had actually been lifted?

Mr. DE RONDE. We knew the embargo had been lifted at the time we bought the sugar; yes, sir. It was lifted on May 22.

Mr. PURNELL. Did your company know that the American Trading Co. had undertaken to bring in a certain quantity of sugar at the request of the Government?

Mr. DE RONDE. We knew it after Mr. Riley told us.

Mr. PURNELL. But you did not know it before that?

Mr. DE RONDE. No, sir.

Mr. WARD. Have you anything in writing from Mr. Riley to the effect that he would furnish you with customers?

Mr. DE RONDE. I think Mr. Riley's letter so states in some portion of it.

Mr. ASWELL. Mr. De Ronde, are you connected in any way with the American Trading Co.?

Mr. DE RONDE. No, sir.

May I read this statement on page 24 in answer to Mr. Ward's question:

"Mr. De Ronde informed me that his company would be in a position, if the Government desired, to import about 5,000 tons of white granulated sugar and asked under what conditions the Government would authorize and desire this importation and his participation in the work for the Department of Justice. I told Mr. De Ronde that the Government's concern was in securing this sugar from the Argentine to add to the supply in the United States, to reduce the price, and to distribute sugar to essential users, and that the Department of Justice would approve and desire that Mr. De Ronde's company take up the importation of the 5,000 tons from the Argentine under the conditions as to price and distribution, which the Department of Justice would indicate."

Mr. JONES. Mr. De Ronde, you say you are not engaged in the sugar business?

Mr. DE RONDE. No, sir.

Mr. JONES. Is Philip De Ronde engaged in the sugar business?

Mr. DE RONDE. No, sir. When I say I am not I am speaking for my firm. We are not in the sugar business directly or indirectly, and never have been.

Mr. JONES. At any time.

Mr. DE RONDE. No, sir.

Mr. JONES. You spoke of bringing this sugar up on a boat—the Oriental Navigation Co., was it?

Mr. DE RONDE. Yes, sir.

Mr. JONES. The Oriental Navigation Co. was operating it for the Shipping Board or had gotten it from the Shipping Board?

Mr. DE RONDE. Yes, sir.

Mr. JONES. Would it have been easy for you to have secured or could you have secured a full cargo of freight without shipping this sugar on this ship?

Mr. DE RONDE. Yes, sir; I may say that our agents in Buenos Aires protested vigorously about putting this sugar on the ship; that is, all of it, because they had engaged other cargo to go on that steamer; and, in fact, through some arbitrary action of theirs they had already loaded some of the cargo on the steamer, which we insisted they take off and bring the sugar, which they did.

Mr. JONES. Then you had sufficient freight to have received a full cargo?

Mr. DE RONDE. Yes, sir; we would not have sailed without a full cargo.

Mr. PURNELL. Mr. De Ronde, I want to ask you another question. Did you take this matter up at any time with the Sugar Equalization Board?

Mr. DE RONDE. No, sir; we did not.

Mr. PURNELL. You never presented the matter to them?

Mr. DE RONDE. We did not; no, sir. We hesitated a long while. We did not know what to do or what action to take. We were ignorant and we were thinking over what was the best thing to do, and a few months later, as stated in the memorandum I read, I came down here to Washington alone, without knowledge of what I was going to do, just passing around to see the best method to pursue in properly presenting our loss to the proper people, and at that time I understand the authority of the Sugar Equalization Board had been turned over, at any rate, to the Department of Justice.

Mr. PURNELL. My reason for asking that question is a statement made by Mr. Glasgow at the hearings on June 8 last, in which he said—

Mr. DE RONDE. What page is that, please?

Mr. PURNELL. Page 48. In which he said:

“Mr. GLASGOW. And let me ask you another thing, if you gentlemen (meaning the committee) pass any other claim—it has been a long time since this transaction, and any claims ought to have appeared a long time ago—but if you pass any other (meaning the Franklin claim) do not leave any discretion with the board if you want it paid, because I have told you the board will never pay out a cent other than this claim as long as it is not directed absolutely to do it by Congress.”

Mr. DE RONDE. Yes, sir.

Mr. PURNELL. My question was prompted by that statement of Mr. Glasgow. It does not necessarily reflect on your claim, however.

Mr. DE RONDE. I think that statement, to be perfectly frank with you, did not refer to the American Trading Co. claim, but to mine.

Mr. CLARKE. Oh, no; he was testifying on that claim.

Mr. DE RONDE. He was testifying on that claim; but if you will remember, Mr. Clarke, when I appeared here at that time, in an endeavor to get a hearing, which I afterwards realized was rightly refused by this committee because I had no bill before you to consider, Mr. Glasgow knew all about my claim, and I presumed those statements were made applying to me. I do not know.

Mr. PURNELL. I think you are mistaken.

Mr. DE RONDE. I may be.

Mr. PURNELL. I think he referred to the claim of the American Trading Co.

The CHAIRMAN. That was the matter under consideration at the time.

Mr. JONES. But “the other claim” may have referred to his claim.

Mr. DE RONDE. Mr. Glasgow has always been very emphatic in the statement that if there were any instructions about the payment of either one of these claims, they must be specific, and Congress must instruct them, as he would only pay them on a specific instruction from Congress. We have agreed, and I repeat this again, we expect to turn over to the Sugar Equalization Board, if this resolution is passed, the same as the other concerns do, all our books and documents for audit by them to prove our loss.

Mr. ASWELL. Mr. De Ronde, you said that you are not a lawyer and that Mr. P. De Ronde is not a lawyer.

Mr. DE RONDE. That is true.

Mr. ASWELL. How does it happen you did not employ an attorney to come here and work this matter up, as all the other companies did.

Mr. DE RONDE. I will tell you frankly, Mr. Aswell, about that. When I first came to Washington about this matter, in my ignorance—

Mr. ASWELL. You did not seem to know just what to do?

Mr. DE RONDE. I did not know just what to do, and I did bring some lawyers with me. I was asked that question before in the other hearings.

Mr. PURNELL. You mean you did that in your ignorance?

Mr. DE RONDE. In my ignorance; yes, sir; and I found out it was not a matter that required lawyers, in my opinion and in the opinion of those Members of both Houses of Congress that I talked with, but was, rather a statement of business facts that a business man could present in making out his case better than an attorney could, so I dismissed my attorney friends, and I have not had any with me since, and I did not think that you gentlemen, most of whom are lawyers, would require a lawyer to come here to tell you your business. I am not a lawyer. I am only a business man, sir.

Mr. ASWELL. Mr. De Ronde, may I inquire about another point, because I was surprised it was not mentioned by Mr. Franklin yesterday? At that time was there not some expense connected with the transfer of money between the two countries in the handling of this sugar?

Mr. DE RONDE. Mr. Franklin doubtless included that—I know he did, because I asked him the question this morning and I know he did include that in his summary of expenses.

Mr. ASWELL. Did you also include that cost?

Mr. DE RONDE. Yes, sir; that was a part of our cost, owing to the difference in exchange between the two countries, and in our case it was about \$26,000 that we had to pay.

Mr. KINCHELOE. How do you mean you had to pay that? Was American money worth less than Argentina's money at that time?

Mr. DE RONDE. Yes, sir; at that time. We established the credits in American gold, and these fellows sold on an Argentine basis and insisted that we pay the difference, and we had to do that.

Mr. PURNELL. Mr. De Ronde, I do not understand this item of \$168,000 in your statement. You say, "On hand, 1,000 tons, equivalent to 2,240,000 pounds, at 7½ cents per pound, \$168,000."

Mr. ASWELL. Have you still got that sugar on hand?

Mr. DE RONDE. No, sir; it has been sold.

Mr. PURNELL. You have since sold that sugar?

Mr. DE RONDE. Yes, sir.

Mr. ASWELL. What did you get for it?

Mr. DE RONDE. We got a price of about 5½ cents a pound for it.

Mr. PURNELL. So that will decrease this amount of \$168,000 and likewise increase the amount of your claim.

Mr. DE RONDE. Yes, sir; it will increase the amount of our claim.

Mr. PURNELL. What will be the total amount of the claim?

Mr. DE RONDE. That will increase the claim just about \$56,000, making the approximate amount of the claim \$1,700,000. Of course, these figures I am giving you are approximate.

Mr. ASWELL. Do you expect to have those figures audited by the Sugar Equalization Board?

Mr. DE RONDE. Absolutely, Mr. Aswell.

Mr. VOIGHT. Mr. De Ronde, I notice, according to your statement on page 9 of this pamphlet, that you fared a great deal worse in disposing of this sugar than the American Trading Co.

Mr. DE RONDE. For this reason, Mr. Voight, I assume: First of all, according to the facts deduced from the testimony yesterday, we paid a little more for our sugar than the American Trading Co. did, and also were apparently less successful in marketing it.

Mr. VOIGHT. Did not your sugar get here before that of the American Trading Co.?

Mr. DE RONDE. I do not know when their sugar arrived here. Ours arrived on August 26, but the American Trading Co., as I understand it, were successful—if I am wrong Mr. Franklin will correct me, no doubt—but as I understand it, they succeeded in selling several thousand tons of this sugar before its arrival at the market price, which made their average price much higher than mine. Is that right, Mr. Franklin?

MR. FRANKLIN. That is correct. Our arrangement was to sell the sugar as we purchased it.

MR. DE RONDE. We did not have that arrangement.

MR. FRANKLIN. That is why we maintain that the Government fell down in not getting the permit promptly and where our loss came in.

MR. DE RONDE. Mr. Riley was very insistent that we bring this sugar in.

MR. ASWELL. One more question, Mr. De Ronde. Did your company contemplate distributing the sugar itself or having that done by the Attorney General?

MR. DE RONDE. We contemplated doing it ourselves.

MR. ASWELL. How? Were you prepared to distribute that sugar over the country?

MR. DE RONDE. We were prepared to distribute it when we got the names of the buyers.

MR. ASWELL. Where were you to get the names of the buyers?

MR. DE RONDE. We were supposed to get them from the Department of Justice, but we did not get them, and we were finally told by the Department of Justice—in fact, they intimated very strongly to us that if we did not get rid of this sugar we were liable to prosecution for hoarding.

MR. PURNELL. Mr. De Ronde, were you to handle the sugar, buy it, and distribute it for 1 cent a pound profit?

MR. DE RONDE. Yes, sir.

MR. PURNELL. Then the American Trading Co. and the other people got 1 cent more per pound out of it than you did?

MR. DE RONDE. I would not say that the other company got 1 cent a pound more. They got 1 cent a pound apiece, but I will say, in all due deference to the American Trading Co. and the Department of Justice, that they could not have found better distributors than B. H. Howell, Son & Co.

MR. PURNELL. If they furnished the customers or purchasers to you, you could have delivered it?

MR. DE RONDE. Yes, sir.

MR. PURNELL. Would you have been content to have delivered it for 1 cent a pound?

MR. DE RONDE. That was our agreement.

MR. PURNELL. To whom did you sell the 4,000 tons that were sold?

MR. DE RONDE. Most of it was sold to exporters. It was impossible to get rid of it in this country.

MR. PURNELL. Did you find your own purchasers?

MR. DE RONDE. Yes, sir.

MR. PURNELL. None of them was suggested by the Department of Justice?

MR. DE RONDE. Not a one. We sold the first lot of 800 tons in October, 1920. That was for export. That was the only way we could find buyers at all. We could not sell it in this country. People would not offer us anything for it here.

MR. PURNELL. How do you account for the Department of Justice making two contracts for the purchase of sugar in the same country under such widely divergent terms?

MR. DE RONDE. I would not attempt to account for that, sir. I do not know.

MR. PURNELL. In one instance 2 cents a pound was to be paid for handling and distribution, and in the other instance 1 cent a pound?

MR. DE RONDE. That would appear so.

MR. TEN EYCK. Was the fact that they were only to give you 1 cent due to the fact that they contemplated they would sell the sugar and that therefore it would cost them money to sell it, and they would only pay you the 1 cent for distribution?

MR. DE RONDE. They were not to actually sell it. They were to furnish us the names of the people they wanted to have this sugar, and would set the price, presumably; we were to get the ruling market price for it at the time of the sale.

MR. PURNELL. They were to do the same thing for Howell & Co.?

MR. TEN EYCK. What I mean is, it costs money to find customers, and therefore they only gave you 1 cent for distribution because they considered it was going to cost the Government something to sell it.

MR. DE RONDE. I think it is a safe assumption, Mr. Ten Eyck, that that was in their minds.

MR. PURNELL. I do not agree to that at all.

MR. KINCHELOE. They furnished Howell & Co. the names of purchasers, too.

Mr. TEN EYCK. I am simply asking for information.

Mr. DE RONDE. I can only infer what their agreement was, but my agreement was to distribute this sugar for 1 cent a pound.

Mr. PURNELL. The same arrangement existed between De Ronde & Co., and between B. H. Howell & Co. and the American Trading Co., so far as furnishing purchasers was concerned.

Mr. DE RONDE. Exactly.

Mr. PURNELL. They got the sugar from the same place and were to be furnished with the names of purchasers in the same manner.

Mr. DE RONDE. Exactly.

Mr. JACOWAY. I would like to ask you a few questions, Mr. De Ronde, to see if I get your premises correctly. You are bottoming your claim, as I understand it, and if I state it wrong, please correct me; first, that if the Lever Act contemplated such action on the part of the Attorney General as was engaged in by the Attorney General and representatives of your firm, then this is a legal obligation on the part of the Government on the ground of agency; is that correct?

Mr. DE RONDE. I do not know that I am competent to answer that question, Mr. Jacoway. I can not go into the legal end of it sufficiently to answer that.

Mr. JACOWAY. You understand that I am not trying to trap you, but simply trying to understand the basis of your claim.

Mr. DE RONDE. I understand that; and I am sure you are not trying to trap me.

Mr. JACOWAY. I am trying to see on what your claim is bottomed. Do you claim it is both a legal and a moral obligation?

Mr. DE RONDE. No, sir; I do not.

Mr. JACOWAY. You claim, then, it is a moral obligation.

Mr. DE RONDE. Yes, sir.

Mr. JACOWAY. The correspondence with the Attorney General's department seems to indicate it may be a legal claim as well as a moral claim.

Mr. DE RONDE. That may be. I hope it is, but I have never claimed that we had a legal claim.

Mr. JACOWAY. Now, another question. Did the Department of Justice or any officer of the Government call your firm in for the purpose of handling this proposition, like they did the B. H. Howell Co.?

Mr. DE RONDE. They did; yes.

Mr. JACOWAY. I am simply trying to develop the facts.

Mr. DE RONDE. I understand that, sir.

Mr. JACOWAY. Were you acting all the while under their direction and supervision, and doing exactly what they said and doing nothing that they said not to do?

Mr. DE RONDE. We were.

Mr. JACOWAY. Was there ever a time in the history of the whole transaction, relative to your claim, when you could have sold this sugar on your own initiative, if you had had that initiative and that right, and gotten out without a loss?

Mr. DE RONDE. It is my belief we could have; yes, sir.

Mr. JACOWAY. Were you prevented from taking that initiative by the Federal Government or its officers?

Mr. DE RONDE. Yes, sir.

Mr. JACOWAY. Then, did you lose, as a result of following the directions of the Government in this transaction?

Mr. DE RONDE. We did.

Mr. JACOWAY. That is all.

Mr. McLAUGHLIN of Michigan. You say you applied for a license?

Mr. DE RONDE. Yes, Mr. McLaughlin.

Mr. McLAUGHLIN of Michigan. And it was later issued to you?

Mr. DE RONDE. Yes, sir.

Mr. McLAUGHLIN of Michigan. Have you a copy of that application?

Mr. DE RONDE. A copy of our letter of application on which the license was issued?

Mr. McLAUGHLIN of Michigan. Yes. You made a statement in writing for a license; have you a copy of that application?

Mr. DE RONDE. No, sir; but I can tell you in substance what it was. We simply wrote about a four-line letter asking for a license to deal in sugar, and we received it, and the license itself you will find published in the memorandum which I have furnished.

Mr. McLAUGHLIN of Michigan. I see that a copy of the license is here.

Mr. DE RONDE. I have the original here.

Mr. McLAUGHLIN of Michigan. And one paragraph of the license says: "This license is based upon the statement in licensee's application on file with the United States Food Administration, Washington, D. C." So I presume you had to make some statements in your application?

Mr. DE RONDE. I can tell you about it.

Mr. McLAUGHLIN of Michigan. It is in writing, is it not?

Mr. DE RONDE. Yes, sir.

Mr. McLAUGHLIN of Michigan. Then I would rather have the writing than your statement.

Mr. DE RONDE. That is in writing, sir.

Mr. PURNELL. Mr. De Ronde, whatever agreements your concern had with the Government were verbal?

Mr. DE RONDE. Yes, sir.

Mr. PURNELL. There was none whatever in writing?

Mr. DE RONDE. No, sir.

Mr. RIDDICK. Did you at any time attempt to get an arrangement or an agreement put down in writing?

Mr. DE RONDE. No, sir; except we got a confirmation of the arrangement from Mr. Riley which you will find in the pamphlet which I have placed in your hands.

Mr. CLARKE. Have you tried to get Mr. Riley here?

Mr. DE RONDE. Yes, sir.

Mr. CLARKE. What was his excuse for not coming? What did you do? Wire him or write him?

Mr. DE RONDE. I wired him and telephoned him last week and every day this week. Mr. Riley is employed in the merchandising department of John Wanamaker, and said he absolutely could not get away this month. I also intended to have ex-Attorney General Palmer here this morning, but he is not in Washington, and I could not get him.

Mr. TINCER. Mr. De Ronde, did Mr. Riley appear before the Senate committee?

Mr. DE RONDE. Yes, sir.

Mr. TINCER. I was confused in my own mind about whether I had read his testimony or not.

Mr. DE RONDE. Yes, sir; you will find his testimony in full there, and if the committee would like copies of his testimony, I would be glad to get them. I have several copies, if the committee would like them.

Mr. CLARKE. I would like to have a copy of that.

Mr. RIDDICK. Mr. De Ronde, while this matter was pending and when you saw a loss staring you in the face, did it not occur to you at any time that you should have some sort of memorandum in writing showing your relations with the Government?

Mr. DE RONDE. Yes, sir; we did get that.

Mr. RIDDICK. I understood you to say you did not have anything in writing.

Mr. DE RONDE. We did get that from Mr. Riley, the special assistant to the Attorney General, with whom we had the transaction. He has written a very voluminous letter to us, which he has sworn to.

Mr. RIDDICK. That letter came afterwards?

Mr. DE RONDE. Yes, sir.

Mr. RIDDICK. I mean at this particular time when you were asking, for instance, to sell this sugar in the Argentine to save yourselves from loss.

Mr. DE RONDE. Well, I will tell you now that we were all at sea and we did not know what to do or which way to turn. Riley was pounding us to get rid of the sugar, not to hoard it, and said it must be let out, and the price seemed to be getting worse and worse all the time, so we determined there was only one thing to do, and that was to close it out.

Mr. RIDDICK. Just as an ordinary business proposition, it seems to me that the natural thing would have been for you then and there—

Mr. DE RONDE (interposing). Bear in mind that we did follow it up very quickly after that. The first sale was in October, and in December, two months afterwards, I was down here trying to find a solution.

Mr. PURNELL. When you first told Mr. Riley you had an actual loss in this sugar, he told you you would have to fight your own way out, did he not?

Mr. DE RONDE. Yes, sir; not in those words, but in substance he told us we would have to fight our own way out and take such procedure as we might decide upon to recoup ourselves from our losses.

Mr. PURNELL. That seems to have been the very first time that your concern and Riley had gotten together and had really considered seriously the question of a loss, and I repeat that the strangest thing to me about your claim and the other one is that at no time did you gentlemen, who are, I know, good, sensible business men, ever discuss the question of a loss in a transaction involving several million dollars. The minute you discovered you had a loss you spoke to Riley and he told you you would have to fight your own way out. Now, when you saw you were in that predicament what did you do immediately following that to put your claim in such shape that it would have, on its face, at least, some merit before Congress or before some other body?

Mr. DE RONDE. We could not put our claim in shape. Our idea was that we knew then we had to sell the sugar. We tried desperately to sell it before. I was after Mr. Riley almost daily, Mr. Purnell, and told him, "You must aid us in this thing, Riley. You have gotten us into this thing; what are you going to do? We have got to sell this sugar. We can not keep it; the charges are accruing every day."

Mr. PURNELL. And he still refused to let you sell it in the Argentine?

Mr. DE RONDE. No; at that time. Late in the fall of 1920 he would probably have permitted us to have sold it in the Argentine, but then you could not sell it.

Mr. PURNELL. Your vessel had actually left the Argentine before you asked permission to sell it, had it not?

Mr. DE RONDE. Yes, sir; I think it had.

Mr. PURNELL. But he refused the permission?

Mr. DE RONDE. Yes; he had a mania for getting that sugar to New York. He said, "People here want the sugar." As a matter of fact, I think it has been fully demonstrated that there was plenty of sugar all over the United States, but people did not know about it. It was hoarded everywhere, and when it began to get out that started the ball rolling.

Mr. ASWELL. Would it not be a good idea to incorporate Mr. Riley's previous testimony in your hearing this morning?

Mr. DE RONDE. I will get a full copy of the Senate hearings.

Mr. ASWELL. Would it not be better to add Mr. Riley's testimony to your testimony this morning, so that it can be consecutive?

Mr. DE RONDE. I will be glad to do that with the consent of the committee.

Mr. ASWELL. I ask unanimous consent that that be done, Mr. Chairman.

The CHAIRMAN. Without objection, it will be so ordered.

Mr. CLARKE. Mr. De Ronde, when this proposition originated and you went down to the Mechanics & Metals National Bank and the Empire Trust Co. and the other banks to arrange for credits, how was that done? What were the statements submitted to those banks and trust companies on which they gave you this credit of \$2,000,000, was it not?

Mr. DE RONDE. Yes, sir; \$2,200,000.

Mr. KINCHELOE. Mr. De Ronde, you spoke of this not being a legal obligation; I presume the general counsel of your company advised you to that effect?

Mr. DE RONDE. No, sir; they did not.

Mr. CLARKE. Let me get an answer to my question. You went down to these banks to arrange for a credit of \$2,200,000.

Mr. DE RONDE. Yes, sir.

Mr. CLARKE. You surely had to submit to the bank officials statements of some kind as to what you needed the money for and how the transaction originated, etc.

Mr. DE RONDE. I am quite familiar, Mr. Clarke, with establishing credit, because that has been a daily occurrence in our business, and I think any exporter or importer will bear me out in the statement that a concern that has proper credit standing with a bank, issuing foreign credits, has but to go to that bank and say, "I want a credit for an importation of sugar or shoes or hides or anything else, and I want it for 60 or 90 days." In our own case, I have forgotten whether it was 60 or 90 days, but we went to these four banks and said, "We have been requested by the Department of Justice to bring in this sugar and we are going to bring it in under our own name, and we want a credit for it." It amounted from each bank, in round figures, to a little over \$500,000. That is all that was said about it and there was no hesitancy about it, because, I am glad to say, our credit was good.

Mr. JACOWAY. You distributed the honor of the loan among four banks?

Mr. DE RONDE. Yes, sir; the four banks are named in the statement there.

Mr. PURNELL. What have you other than Mr. Riley's statement to show that the Government really was exercising supervision over this transaction and that the Government authorized you to make the purchase?

Mr. DE RONDE. Nothing except former Attorney General Palmer's corroboration.

Mr. PURNELL. That was subsequent to the transaction, was it not?

Mr. DE RONDE. Yes, sir. It was subsequent to my hearing. We did not have it then.

Mr. PURNELL. You did not have any conversation with any member of the Department of Justice here in Washington or the Department of State?

Mr. DE RONDE. Yes, sir; I did—not in Washington but I had numerous conferences with Mr. Riley, of the Department of Justice.

Mr. PURNELL. Mr. Riley was stationed in New York, was he?

Mr. DE RONDE. Yes, sir. And Mr. Riley, I might add, just prior to our transaction was placed in supreme charge of sugar matters by Mr. Palmer.

Mr. RIDDICK. Mr. De Ronde, what assurance had you that Mr. Riley would carry out the arrangement that he had made with you on behalf of the Government?

Mr. DE RONDE. Why, we had no assurance, except his word as a member of Attorney General Palmer's staff acting for the Attorney General. We considered that in dealing with Mr. Riley we were dealing with the Attorney General's office.

Mr. RIDDICK. Is it your habit as a business man to just accept a man's word and enter into a \$2,000,000 transaction with him without the scratch of a pen to show for it?

Mr. DE RONDE. In those times—perhaps we would be more careful to-day; I am sure we would with respect to sugar—very frequently large transactions were carried on over the telephone with nothing written to cover it.

Mr. RIDDICK. I do not know how the other members of the committee feel, but I am frank to say to you that the one thing that is hard for me to get around is the fact that you as business men, who are such sticklers for business methods—you always have been when I have had contact with you—should have disregarded the commonest business precaution. You had not even the scratch of a pen. You just carried this thing in your head, that you were to have a cent a pound and the other companies 2 cents a pound. You did not even look this man up to see that he had authority to make this arrangement, did you?

Mr. DE RONDE. Why, Mr. Riddick, there are hundreds of millions of dollars worth of business handled every day by word of mouth without the scratch of a pen. I could cite you the instance of one of our connecting concerns, the Oriental Navigation Co. I have heard them purchase a ship for \$1,750,000 over the telephone without the scratch of a pen to show for it.

Mr. RIDDICK. If I should come up to New York to-morrow and tell you that I was representing the department down here and asked you to spend \$2,000,000, would you do it?

Mr. DE RONDE. No, sir; not now.

Mr. CLARKE. But this man Riley had an office up there in New York, in the post-office building, did he not?

Mr. DE RONDE. Yes; he had an office in New York. Let me say, Mr. Riddick, that your question is, I think, quite appropriate. It does seem to the ordinary man that it was a careless thing for any business house to have done.

Mr. RIDDICK. It makes it appear that this is all an afterthought, that now that it is all over you see a chance to come down here and reimburse yourselves.

Mr. DE RONDE. If a man comes into my office to see me, stating that he represents a big firm, I do not ask for his credentials. In Mr. Riley's case it was, perhaps, a little different—not perhaps; it positively was different. He had been known to my partner for many years. He knew him intimately, and he would have taken his word for almost anything. That was, perhaps, one of the greatest factors in our having made this alleged unbusinesslike deal and not having it in writing. It was owing to our confidence in and long acquaintance with Mr. Riley. But I again repeat, Mr. Riddick, that there are very large transactions, much larger than this, carried on every day without the scratch of the pen about it.

Mr. KINCHELOE. Did your board of directors ever meet to pass on this proposition, as to whether you would embark on this, before you really did it?

Mr. DE RONDE. Well, I might say that our corporation is a limited one. There are only three of us, and we met in the office every day and discussed it. We never had any formal hearings; no, sir.

Mr. JACOWAY. Did you have any minutes?

Mr. DE RONDE. Yes, sir.

Mr. JACOWAY. Was anything spread upon the minutes relative to this?

Mr. DE RONDE. My impression is that there was, but I would not like to answer that positively. It may not have been, because as I say, we were all in the same office and all actively engaged in this business. It is not like the ordinary board of directors of 10 or 12 men who may not know anything about the business.

Mr. VOIGT. Mr. De Ronde, you had to have a license from the Argentine Government to export this sugar, did you not?

Mr. DE RONDE. No; we did not. I will tell you why. We had no interest in that. Mr. Voigt, because we bought the sugar delivered in New York, and that is prima facie evidence that the people exporting it must have had the license or they never could have shipped it.

Mr. VOIGT. The point I am trying to get at is this: It appeared in the case of the American Trading Co. that the Argentine Government would not allow the sugar to go out except upon representations made by the United States Government that it was to be used for the people of the United States. It seemed to me that in this case there must have been some action taken by the Argentine Government.

Mr. DE RONDE. May I explain that, please? And if I step on your toes, Mr. Franklin, stop me. I understand that in Mr. Franklin's case they had purchased this sugar—I have to go back in order to make myself clear—they had purchased this sugar before the embargo against the general exportation of sugar was lifted. When that embargo was lifted, they had the statement there, "You can not export sugar unless you deposit a certain percentage of pilet sugar," which Mr. Franklin did not know anything about. Therefore he had to get a special dispensation to get around that deposit of pilet.

We were not interested. What our people did down there was this: It appears from subsequent developments that they did have the pilet sugar and deposited it down there with the Government, which permitted them to ship it before the general lifting of the embargo. That is my understanding of it.

Mr. VOIGT. Then your people that sold this sugar to you did not have any special concessions or permits from the Argentine Government?

Mr. DE RONDE. No, sir; except that they, fortunately, had this pilet sugar to deposit with the Government so as to comply with the restrictions on the general lifting of the embargo.

Mr. VOIGT. Did that mean that they had to make the Government a present of this pilet sugar?

Mr. DE RONDE. Oh, no.

Mr. VOIGT. By the way, what is pilet sugar?

Mr. DE RONDE. Not being a sugar man, I am not very familiar with it. If I may, I will just quote Mr. Glasgow's statement from page 64 of the Senate hearings:

"The American Trading Co. having no pilet sugar to deposit, not being able to come within this provision, the State Department negotiated a special license to permit 14,000 tons to be brought in and a license issued to them. This is the history of it."

That brings out the point that they had to get a special permit.

Pilet sugar, as I understand it, is a semirefined sugar, is it not?

Mr. FRANKLIN. I understand it is in larger grains.

Mr. DE RONDE. It is larger grained. They kept it back to protect themselves against a shortage of sugar, and it was sold at the upset price which the depositor was afterwards to be reimbursed for. That is my general understanding.

Mr. KINCHELOE. Mr. Chairman, there is a vote in the House. Are we going to continue this afternoon?

The CHAIRMAN. What is the pleasure of the committee? Shall we meet here to-morrow? [After informal discussion.] Without objection, the committee will take a recess until 10 o'clock to-morrow morning. Before we go Mr. Marsh desires to be heard for a minute or two.

COMMITTEE ON AGRICULTURE,
HOUSE OF REPRESENTATIVES,
Saturday, January 21, 1922.

The committee met at 10 o'clock a. m., Hon. Gilbert N. Haugen (chairman) presiding.

There were present: Mr. Haugen, Mr. McLaughlin of Michigan, Mr. Ward, Mr. Purnell, Mr. Voigt, Mr. McLaughlin of Nebraska, Mr. Riddick, Mr. Tincher, Mr. Williams, Mr. Sinclair, Mr. Hays, Mr. Thompson, Mr. Gerner, Mr. Clague, Mr. Clarke, Mr. Jacoway, Mr. Rainey, Mr. Aswell, Mr. Kincheloe, Mr. Jones, and Mr. Ten Eyck.

**STATEMENT OF MR. FRANK S. DE RONDE, VICE PRESIDENT OF
P. DE RONDE & CO. (INC.), 39 BROADWAY, NEW YORK CITY,
N. Y.—Resumed.**

The CHAIRMAN. Mr. De Ronde, are you ready to proceed?

Mr. DE RONDE. Yes, sir. I do not know that I can add anything to what I have already stated, Mr. Chairman, but I presume some of the members of the committee would like to ask me further questions.

In accordance with the suggestions of some of the members of the committee yesterday, I would like to submit as a part of this record Mr. Riley's testimony before the Senate committee, which is included in the hearings on S. J. Res. 12 before the Senate Committee on Agriculture and Forestry, which I will hand to the reporter for insertion in the record.

(The statement referred to follows:)

STATEMENT OF MR. A. W. RILEY.

Mr. RILEY. A. W. Riley. I live in Bronxville, N. Y.

The CHAIRMAN. You may proceed with your statement.

Mr. RILEY. I do not know exactly whether I am to make a statement or to be questioned.

The CHAIRMAN. Well, Mr. Riley, I think the committee wants to know two things. We want to know, first, what authority you had from the Government and, second, what you did with the De Ronde Co.

Mr. RILEY. The authority, I think, has been shown to have been lodged in me by the testimony of Mr. Palmer, and I relied on his instructions to me. I continued actively engaging in this work up until the time that Mr. Palmer and myself went out of office, on the 3d of March.

The CHAIRMAN. How was that authority given to you? Was it given orally or in writing?

Mr. RILEY. As Mr. Palmer testified, he had Mr. Figg and myself appear before him in his private office in Washington in the Department of Justice and instructed me to continue with the work, and told Mr. Figg that he thought I should handle that work from that time on.

The CHAIRMAN. You are referring to the sugar work?

Mr. RILEY. Well, he referred particularly to the sugar, because that was the thing that was uppermost at that time.

The CHAIRMAN. That is as far as the committee is interested in your authority?

Mr. RILEY. Yes, sir.

Mr. GLASGOW. Did you not usually get a letter from the Attorney General appointing you as the Assistant Attorney General?

Mr. RILEY. Yes.

Mr. GLASGOW. Did not that letter specify what you had to do?

Mr. RILEY. Yes.

Mr. GLASGOW. That specified that you were to have charge of looking after prosecutions for violations of the Lever Act in the district around New York?

Mr. RILEY. No; it did not.

Mr. GLASGOW. What did it specify?

Mr. RILEY. I was here in Washington.

Mr. GLASGOW. Wherever your jurisdiction was?

Mr. RILEY. That was all over the country?

Mr. GLASGOW. Prosecutions under the Lever Act?

Mr. RILEY. Investigations and prosecutions.

The CHAIRMAN. At the time you had this conversation or this conference with the Attorney General about which you have testified, when there seemed to be some conflict between you and Mr. Figg, did you get a letter from the Attorney General after that designating your authority?

Mr. RILEY. No, sir.

The CHAIRMAN. Tell the committee just what the Attorney General said to you and what you first did in regard to sugar.

Mr. RILEY. You see, I had been engaged in that work since the 2d of December, 1919, and that was the development of the result of the work that I had been doing. I was not at first appointed special assistant to the Attorney General. That appointment came after my work seemed to warrant my authority being increased, and after that appointment I was then indicated by the Attorney General to have charge of investigations and prosecutions under the Lever Act. I handled the meat-packer's investigation and all those others.

The CHAIRMAN. We understand that, but the committee is particularly interested in what authority you had in regard to sugar.

Mr. RILEY. Sugar was an important question at that time on account of its price and scarcity. The department was trying to get importers to supply sugar. The housewife and everyone was complaining. We were flooded with complaints of that sort. I was receiving all of the reports from the special agents of the Department of Justice which looked into the question of profiteering on sugar. Those were referred to my office in Washington. Every report that came in came to my office, and I indicated what procedure should be followed, whether the case should be investigated further, whether it should be submitted to a grand jury, etc.

Senator GOODING. Let me ask you one question. Did you feel called on to report to the Attorney General all your actions in that matter?

Mr. RILEY. Oh, yes. I was in the same building with him. I was in consultation with him on the general policy right along, but not specific cases. He was too busy, and he knew what my procedure had been in many cases which had been called to his attention, but after they were accomplished I did not go to him and say, "Shall I proceed against this company? Shall I proceed against that company?" I had conferences with Senator Smoot long before that on the price of beet sugar in the Middle West—many conferences.

Senator McNARY. As I understood you, you had written instructions of authority from the Attorney General. Will you supply the record with that authority?

Mr. RILEY. I will be very glad to.

(The document referred to is on file with the clerk of the committee.)

Mr. GLASGOW. The statute requires the Attorney General, in selecting special assistants, to designate where they shall act.

The CHAIRMAN. At the time you had this conference the ex-Attorney General states that he turned this sugar business over to you. You had no written authority at that time or after that, did you?

Mr. RILEY. Nothing in addition.

The CHAIRMAN. What I am trying to have you tell the committee is, What did he say to you then? When you say you got authority as a lawyer you know you are giving our conclusion. State the facts and let us draw our own conclusions.

Mr. RILEY. Exactly. I had been directing the investigations of the agents by wire and by letter all over the country, and it resulted in various indictments throughout the country. A letter was produced signed by Mr. Figg in which a special arrangement had been entered into that the sugar houses be permitted to sell sugar, we will say, at 12 cents to manufacturers and 17 cents to grocers and others. To me that seemed improper.

The CHAIRMAN. That still is not answering my question.

Mr. RILEY. I am trying to lead up to it.

The CHAIRMAN. That is showing how this dispute came about. I do not know whether the committee cares about that. It is enough that there was a dispute.

Mr. RILEY. There was no unpleasantness between Mr. Figg and myself.

The CHAIRMAN. All right. We do not care about that.

Senator RANSDELL. I think he should be allowed to state that. It shows the trend of matters. I think you will get through quicker if you will let him proceed.

The CHAIRMAN. It depends on how far he wanders afield whether we get through quicker or not.

Senator RANSELL. I think he is an intelligent witness and will get through in a few minutes if you will let him.

The CHAIRMAN. Go ahead.

Mr. RILEY. I am trying to point out the various differences of opinion, and that was pointed out to the Attorney General. He said after that, "I think, Mr. Figg, we had better let Mr. Riley handle these cases. He has been handling these prosecutions, and I think it would be better for everyone concerned if we let him take charge of this matter."

Mr. GLASGOW. Your instructions were under the statute. The Attorney General is authorized to appoint special assistants and to designate the line of their work. Your instructions were to investigate and institute prosecutions under the Lever Act for violations of that act by people throughout the country and for profiteering?

Mr. RILEY. He didn't say anything about profiteering.

Mr. GLASGOW. I know, but that was the act.

Mr. RILEY. The act includes distributing.

Mr. GLASGOW. Distributing, or any provisions of the act being violated, the criminal provisions of the act.

Mr. RILEY. Yes, sir; licenses, etc.

Mr. GLASGOW. And you had charge of that. What I would like to know, if I may be permitted to ask the question, is, Did you have any other authority when you undertook to make any purchases for the United States, or did you ever discuss that subject with the Attorney General?

Mr. RILEY. I never made any purchases, nor did anybody else have authority to make any purchases, in my opinion.

Mr. GLASGOW. That was not in the line of your duty? Your duty was prosecutions of violations of the Lever Act?

Mr. RILEY. It was nobody's line of duty.

Mr. GLASGOW. It was not yours, then?

Senator CARAWAY. It strikes me if the witness will give us the facts we will get through with this much quicker. We want to know what he did. Let us not get into any questions about the statute.

Senator GOODING. I think if we would permit the witness to go along and have him confine himself to his authority to encourage men to import sugar, we will accomplish what we are after. That is all we are interested in. The Attorney General, it seems to me, has made very clear the difference between Mr. Riley and Mr. Figg, and he finally put Mr. Riley in complete control of all lines and branches of the sugar question. Am I correct in that?

Mr. RILEY. Quite so.

Senator CARAWAY. Did you understand you had authority to take that action? Not the question of whether you did or not, but did you think you had?

Mr. RILEY. Oh, yes.

Senator CARAWAY. And you made it in good faith?

Mr. RILEY. Yes, sir.

Senator CARAWAY. And you were acting for the Government?

Mr. RILEY. Yes, sir.

Senator CARAWAY. And that was in line with other arrangements you had made?

Mr. RILEY. No, sir; I did not make any such arrangements.

Senator CARAWAY. You did not make arrangements with other companies?

Mr. RILEY. I made arrangements with the counsel for the distributors.

Senator CARAWAY. Did you make any arrangements with the American Trading Co.? Did you understand that was in line with that?

Mr. RILEY. Yes, sir; immediately after I got instructions from the Attorney General to handle the sugar situation I went to Mr. Figg's office to discuss importation of Argentine sugar. I then asked Mr. Figg to give me the name of each person who was receiving Argentine sugar, so I might pursue my previous policy in tracing the sugar from that port to its ultimate destination. I received notice from every house in the United States of every pound of sugar imported. I then notified the agent in charge of that territory to which it was shipped that so much sugar was coming into his territory and to see that it went in direct line to the consumer. I tried to get from Mr. Figg the names of the people who were receiving 14,000 tons of sugar, that I might instruct our local agents wherever they might be in that section that it was coming in and to see that it went direct to the consumer. Mr. Figg was unable to give me those names.

Mr. HALL. Did you understand you were making the same arrangements with the De Ronde Co. that Mr. Figg made with the American Trading Co.?

The CHAIRMAN. I would rather Mr. Riley would tell what he did. Let us draw our own conclusions.

Mr. RILEY. I would like to tell the committee this. It will clear up what might seem to be an evasion on my part. I did not believe, nor do I yet believe, that Mr. Figg nor anyone else in the Department of Justice had authority to indicate a purchasing agent for the department. I don't think they had any such right, and I didn't think so at the time, and I didn't want to place myself in the position of indicating any one person as purchasing agent for the Department of Justice. He was not constrained by any such belief. That is the reason I didn't go right out. I didn't want to be in the position to have anybody say, "Here is a letter that appoints So-and-so as purchasing agent of the Department of Justice," because I didn't feel the department had the right to buy sugar. It had no money to pay for it. There was a constituted agency, the United States Sugar Equalization Board, which had the money. They were the people to buy sugar, and not ourselves. That is the way I felt and the way I now feel.

Senator McNARY. When did you have your first conversation? And what was said between you and Mr. De Ronde concerning the purchase of sugar in Argentina?

Mr. RILEY. De Ronde is a young man. I say "young man"—he is about my age. He was in the Navy. He has had a very romantic career. I must tell you these things. I met him from time to time in the Whitehall Club, in New York, where I was meeting other people. I had an office in New York, because the sugar refiners were there. I discussed the sugar situation with him, as I did with others. I found out that he had a ship down there. I wanted to get as much sugar into this country as possible. I sent a formal invitation to the committee representing the importers, Czarnikow-Rionda, Minford, Ludder & Co., and Lamborn & Co., to come and meet me in my office, and I said to them, "Gentlemen, can't you bring sugar into this country? We need it." They knew the situation. We had these conferences in my office. I also met the refiners there. Mr. Post came to the office on one occasion. I had conferences with the preservers and canners of this country. I didn't get them to put it into writing.

Senator McNARY. When did you have this first conversation with Mr. De Ronde?

Mr. RILEY. Well, now, as I say, the reason I am telling you, I knew this man, and we talked over the general situation, and we didn't meet for the sole purpose of having an arrangement. It developed as the result of our talks down there.

Senator McNARY. Was it in May or June or July or August of 1920?

Mr. RILEY. I see what you mean. It was April, I should say—April or May.

Senator McNARY. And he told you in April that he had sugar that he had purchased in Argentina?

Mr. RILEY. No, sir.

Senator McNARY. When did he tell you that?

Mr. RILEY. He did not tell me he had sugar he had purchased in Argentina.

Senator McNARY. I thought you said he did.

Mr. RILEY. No, sir; it was a ship he had there.

Senator McNARY. I thought you said it was sugar. Did you ever tell him at any time to acquire that sugar and bring it into this country?

Mr. RILEY. Did I direct him to do it?

Senator McNARY. Yes.

Mr. RILEY. No, sir.

Senator McNARY. What was your understanding between you and Mr. De Ronde, you acting in behalf of the Government and he acting in behalf of himself, as to the sugar he acquired in Argentina?

Mr. RILEY. I tried to get him to bring sugar into this country.

The CHAIRMAN. You succeeded in doing so. Tell us your conversation at the time.

Mr. RILEY. He was not in the sugar business.

The CHAIRMAN. That makes no difference.

Mr. RILEY. I didn't say, "Won't you bring some sugar in?" I was asking him about his ship and about the general situation down there. I asked him

about Buenos Aires and the shipping business and exportation, and out of that came the fact that he had a ship down there.

Senator CARAWAY. You finally reached the point about sugar. Did you direct him to bring it in?

Mr. RILEY. I asked him if he couldn't bring it in. I did everything I could to make it easy for him.

Senator CARAWAY. And requested him to do it?

Mr. RILEY. Yes, sir.

Senator CARAWAY. And he brought it on your request?

Mr. RILEY. Yes, sir.

Senator McNARY. When did you make that request?

Mr. RILEY. In April, May, or June.

Senator McNARY. What representations did you make to him if he would bring it in?

Mr. RILEY. Let me see. I told him if he would bring that in I had arranged to have the different sugar refineries and others to supply sugar to the canners and preservers and other essential users, and if he would bring that sugar in I would allot his sugar to that committee which is representing this people and they would take all his sugar.

Senator McNARY. Did you tell him he could receive a certain price?

Mr. RILEY. Not a price; a certain margin.

Senator McNARY. Did you tell him he would be exempted from liability of loss if he would follow your desires?

Mr. RILEY. No, sir; I did not.

Senator McNARY. Did he bring it in on his own hook or his own volition?

Mr. RILEY. Yes, sir.

Senator McNARY. And he did it on his own responsibility?

Mr. RILEY. Yes, sir; he did.

Senator CARAWAY. He did it on your request?

Mr. RILEY. Yes, sir. I didn't attempt to relieve him from reliability.

Senator McNARY. And he brought that in on his own ship, by his permission, of his own volition?

Mr. RILEY. Yes, sir; that is true.

Senator GOODING. Do you think he would not have shipped it if you had not encouraged him to bring it in?

Mr. RILEY. I feel confident he would not. I had in mind the arrangement with the American Trading Co. I thought Figg had exceeded his authority, and I did not go as far as he did. That is the difference between the two.

Senator GOODING. As an agent of the Government, you feel you are responsible for that shipment that De Ronde made into this country?

Mr. RILEY. Yes, sir.

Senator McNARY. What did you do to create that responsibility you denied a moment ago?

Mr. RILEY. I don't think I denied it. I denied any liability, but not responsibility. I didn't feel there was any liability.

Senator RANSDELL. Do you mean legal liability?

Mr. RILEY. Yes, sir.

Senator RANSDELL. You felt you were morally bound and the Government was morally bound?

Mr. RILEY. Oh, yes; and I think so now.

Senator RANSDELL. There is no question about that, in your opinion, under your authority as an agent of the Government?

Mr. RILEY. No, sir. I think they were just as much agents of one as of the other. I don't think either one has a legal claim against us, but I think each has the same moral obligation.

Senator RANSDELL. When you induced that company to bring that sugar in, did you not think it could be sold at a profit to the American people, and at a much cheaper price than they were then paying?

Mr. RILEY. I was confident of it. I think I was mistaken.

Senator RANSDELL. Of course, you were mistaken, but you felt confident of it?

Mr. RILEY. Yes, sir.

The CHAIRMAN. The committee will now take a recess until 1.30 this afternoon.

(Thereupon, at 12 o'clock noon, the committee took a recess until 1.30 o'clock p. m.)

AFTER RECESS.

At the expiration of the recess the committee reconvened at 1.30 o'clock p. m.

STATEMENT OF MR. A. W. RILEY—Resumed.

THE CHAIRMAN. You may proceed with your statement, Mr. Riley.

Mr. RILEY. I thought I might attempt, so as to facilitate matters, because I am anxious to get away, too, to outline from the time this thing was turned over to me by the Attorney General, when he said "from now on you are in charge of the sugar situation." He didn't go any further than that in detail, because he was familiar with what I had done, and I understood the situation. So, when I left the office, I went downstairs to Mr. Figg's office for the purpose of becoming familiar with what he had done or anything he may have done that I had not learned. I knew this Argentine question was in negotiation.

We discussed it, as I said before, with the purposes in view, namely, of bringing in sugar, increasing the supply, and secondly, to break the high prices. He told me the general scheme by which they proposed to bring this sugar into this country. There were about 70,000 tons, as I understand it, and these people with whom he had negotiated, the American Trading Co., were to take a small part of that, and the balance was to be taken up by other people. I believe that was Mr. Figg's understanding, and I believe it was the understanding of the American Trading Co., and I believe there is a letter in the record from Figg to the company to that effect, saying they would take about 10,000 tons, and the rest of it would be taken up by other people.

I think somebody asked whether any report had been made to the State Department of a certain quantity of sugar which had been released, a certain amount had been purchased. As far as I know, there was no reason why anybody should go to the State Department about it. They could just go ahead and get the sugar and bring it in, provided they would distribute it along the lines we indicated, to the essential industries, and at a profit which we attempted to control.

That is the way the negotiations on my part were worked out with De Ronde.

THE CHAIRMAN. Tell what you did with De Ronde.

Mr. RILEY. I used to be here in Washington. I opened an office in New York, spending part of the time here and part of the time in New York. You may think I am digressing here, but if you will permit me a minute, I think I can connect up what I am about to say. I negotiated with these people, who were the representatives of the sugar industry, the importers represented by a certain committee, and the refiners, dividing them into those two classes.

When I got to New York, the president of the canners' industry and the president of the preservers' association, whatever they call them, came to me with their counsel and said, "We can't get sugar with which to preserve and can the fruits and vegetables of the country. What can you do for us? We have been fooling around Washington for two months and have not made any headway. Fruits and vegetables are coming in all the time, and they will rot on the ground. We won't buy them if we can't put them up." That was a serious situation. I knew it existed. Within 24 hours I had a conference with representatives of the refiners. I think Mr. Post was present and all the other refiners, with the possible exception of the Federal.

I told them the situation as was presented to me by the representatives of the canners and the preservers, and they each agreed to give a pro rata amount to these two industries.

Then these two industries appointed men to represent them in New York and opened an office there, and they proceeded to live up to that agreement which they made with me with a view of solving that problem. There was no interchange of correspondence or communications of any character other than that. All our conferences with the importers were held verbally in my office, or in one of their offices, whichever happened to be convenient. That is the way our negotiations were conducted.

I met De Ronde at various times. That sugar was down there. I don't remember how I found out they had a ship down there. I knew the Argentine sugar was there, and I wanted them to bring it in. They had that boat available, and I tried to get them to bring it in this country in that boat. Those communications were conducted informally—I mean verbally. No letters were ever sent.

They agreed to do it, but I remember one thing De Ronde said very distinctly. He said: "I am very much opposed to Government intervention in business. However, if you feel that this condition actually exists, that this shortage exists, and it is necessary that we do that, I am willing to go on." I am sorry now, but I was very emphatic about the importance of that. The people were just pounding me all the time; hospitals were asking for assistance; canners and housewives and everybody were yelling because they couldn't get sugar, and they had me hip and thigh at the time. I was doing everything I could to get sugar here, and I succeeded in working out that agreement.

But I must say I never did tell them that if they lost any money they would be reimbursed by the department. I didn't say they would not be, because it never occurred to me they would be.

The CHAIRMAN. One thing I was anxious to have you tell us, and that is just what you said to Mr. De Ronde and what he did, and then what was done about the sugar. Tell what happened. Tell us the sugar story with De Ronde.

Mr. RILEY. I don't know all the details.

The CHAIRMAN. Tell us what you do know. You had a talk with him, and as a result of the conversation or for some other reason the sugar was brought in here. Tell us what you said to him.

Mr. RILEY. I see. When I told him I knew that sugar was down there and the embargo was being lifted by the Government I wanted to know why he couldn't bring some of that sugar in here; that everybody else was doing it. He was not in the sugar business. He wanted to know how he could be permitted. I told him it was simply a question of a license. I said: "You can apply for a license just the same as the other people do every day. You will have to agree to the regulations set by the department, and then we have the right to revoke your license; and if you continue to deal in sugar without a license, you are liable under the Lever Act." He said he would look into the question of bringing the sugar in, find out the cost. He didn't know how much it would cost him. I didn't attempt to find that out. He said he would look into the matter and find out what he could do. I presume he found out what the prices were down there and what the selling price was here. I can't tell you what he actually did, but I know he communicated with the Argentine people, and told me at one time that he could get some sugar at a price which he could afford to sell here at a margin of 5 per cent, I think he said; but we had put a limitation in our prosecution where a man sold for 1 cent or less he would not be prosecuted. That would be a reasonable margin.

I told him that if he would sell it at a price not to exceed 1 cent profit that would be quite agreeable to us, and we would not prosecute him for profiteering, but he would have to sell along the channels indicated by me, which would be the so-called essential industries, not the manufacturers of candies and syrups and that sort of thing; that sugar for him on this market. Having in mind this offer which was made by the representatives of the whole canning and preserving industry of the United States, that is where I proposed to put his sugar when he brought it in.

The CHAIRMAN. What did he say to that.

Mr. RILEY. He said he would do it.

The CHAIRMAN. Then did he do it?

Mr. RILEY. He did.

The CHAIRMAN. Then what did you do about placing the sugar when it got here?

Mr. RILEY. When the sugar got here there was no market.

The CHAIRMAN. Then what did you say to him?

Mr. RILEY. I told him I was sorry, but there was plenty of sugar, and he could not sell it at a price where he could make any money.

The CHAIRMAN. Then you relieved him from any responsibility of placing it where you designated, and told him he could sell it where he could?

Mr. RILEY. Yes, sir; I told him he could sell it where he could, but that did not mean much. He could have sold it, I presume, but at a great loss. I realized that.

Senator CARAWAY. Did you prevent his storing it, telling him there was a law against hoarding it?

Mr. RILEY. Yes, sir.

Senator CARAWAY. You told him he had to sell it, whether he made or lost money?

Mr. RILEY. Yes, sir. I will tell you why I did that. I felt that the theory of this hoarding act was that people were not entitled to take any of the necessities of life and put them in warehouses and hold them for a high price when there was such a demand.

Mr. GLASGOW. If there wasn't any market for it, the man had to hold it. The holding act or the Lever Act—

Mr. RILEY (interposing). You are interpreting the law, rather than putting it the way I interpreted it.

Mr. GLASGOW. Just wait a moment. The hoarding provision of the Lever Act never applied to requiring a man to sell sugar when there was no market.

The CHAIRMAN. I do not think that is involved in what the committee would like to know. We want to know just what Mr. Riley did and whether it was lawful or unlawful.

You told him he could not hold it?

Mr. RILEY. I told him he could not hold it.

The CHAIRMAN. He did not sell it. He has it yet. Why did you not prosecute him?

Mr. RILEY. I had no idea of prosecuting them; there was plenty of sugar. There was absolutely no necessity. We were tied up by injunctions from prosecutions, and we didn't proceed with out prosecution of these people.

The CHAIRMAN. Would you have prosecuted these people if they had hoarded it, under the circumstances?

Mr. RILEY. Oh, no; I would not. I didn't know that sugar was going to continue to go down. I thought that was a temporary fluctuation of the market.

Senator GOODING. Do you remember what he said when you raised the question about reselling it in Argentina?

Mr. RILEY. No, sir. All I remember is that it was the policy of the department, as borne out by the letter which Mr. Figg had written to the American Trading Co., to the effect that they must not resell in Argentina.

The CHAIRMAN. He did want to resell before he shipped it in here?

Mr. RILEY. Yes, sir.

The CHAIRMAN. Did he communicate to you to that effect?

Mr. RILEY. Yes, sir.

The CHAIRMAN. What did you tell him?

Mr. RILEY. I told him it was against the arrangement we had entered into. I didn't know sugar was going to continue to go down.

The CHAIRMAN. It makes no difference what you thought. What did you do?

Mr. RILEY. That is what I did.

The CHAIRMAN. We will have to draw our own conclusions from what you did.

Mr. RILEY. I am trying to point these things out to you as I go along, because it will seem unreasonable if I don't.

Senator RANSDELL. You prevented his selling it down there?

Mr. RILEY. Yes, sir.

Senator RANSDELL. You took action which in your op'nion would prevent the resale of the sugar?

Mr. RILEY. Yes, sir. I thought I could control it.

Senator GOODING. Why did you not have some record made of all these transactions? Was it not necessary?

Mr. RILEY. It had not been done in any instance. The Attorney General himself had met these people continually and never had, as far as I know, any written communication.

Senator GOODING. That is what I wanted to get clear in my mind. It seems to me a rather loose way of doing business, rather an unusual way, but, of course, we had an unusual condition to meet, and you may have been justified in doing what you did without having a record of it. That was the question I wanted to clear up.

Mr. RILEY. The only communication, as I remember it, between the Department of Justice and the American Trading Corporation, was one letter. That is between the Department of Justice and the American Trading Co. I am not talking about the State Department.

Mr. HALL. That is, at the time the arrangement was made?

Mr. RILEY. Yes, sir.

The CHAIRMAN. Is that all, Mr. Riley?

Mr. RILEY. I think so.

Senator WADSWORTH. I would like to ask a question, Mr. Chairman.

The CHAIRMAN. Very well, Senator.

Mr. RILEY. There is one other thing I would like to mention. After that the De Ronde Co. applied for a license to trade in sugar, and that was granted, and they proceeded under it.

The CHAIRMAN. That was before they brought the sugar in?

Mr. RILEY. Yes, sir; it was about the same time or immediately thereafter. They were not in the business of buying and selling sugar until I persuaded them to.

Mr. HALL. They had to have a license to import?

Mr. RILEY. I think they had, and got a license to deal in sugar. It is a question of what "dealing" is.

Mr. HALL. That applies to sugar?

Mr. RILEY. Yes, sir.

Mr. HALL. There is no question about that.

Mr. RILEY. Yes, sir.

Senator WADSWORTH. Just a few questions, so I can get some things straightened up.

You had a talk with Mr. Figg after your interview with the Attorney General, and Mr. Figg told you about the negotiations that were then going on in the name of the American Trading Co.?

Mr. RILEY. Yes, sir.

Senator WADSWORTH. He told you about that situation?

Mr. RILEY. Yes, sir.

Senator WADSWORTH. Can you recall the approximate date of that conversation with Mr. Figg?

Mr. RILEY. Only generally, Senator. That was in the spring. I have nothing by which to fix it in my mind.

Senator WADSWORTH. In that conversation with Mr. Figg was there discussed the problem of securing a permit for the lifting of the embargo in Argentina?

Mr. RILEY. Yes, sir.

Senator WADSWORTH. What was your information at that time in that respect?

Mr. RILEY. That he had taken it up with the State Department, or with the White House, as he expressed it, and had succeeded in having lifted that onerous condition, namely, the depositing of a certain amount of the sugar before any could be exported at a certain price.

Senator WADSWORTH. Was that conversation prior to June 15?

Mr. RILEY. I have no way of fixing it, Senator. I have nothing at all to gauge it by.

Senator WADSWORTH. Mr. Hall testified this morning that according to his best recollection the embargo on exports from Argentina was lifted about June 15.

Mr. HALL May 22, I think. It was referred to in that letter Senator Frelinghuysen read.

Mr. RILEY. The embargo was lifted May 22, I am told.

Senator WADSWORTH. Did you understand the American Trading Co. at that time was about to export sugar from the Argentine without that deposit?

Mr. RILEY. Yes, sir.

Senator WADSWORTH. Why was it not possible for the De Ronde people to make the same kind of export?

Mr. RILEY. I think it was. Do I understand that as a result of these negotiations that limitation was removed?

Senator WADSWORTH. That is what I am trying to find out. The first time the American Trading Co. had any chance to actually export any sugar was on June 23?

Mr. RILEY. Yes, sir.

Senator WADSWORTH. When the Argentine Government issued that order or proclamation?

Mr. RILEY. Yes, sir.

Senator WADSWORTH. Specifically naming them and saying they could export 13,909 tons?

Mr. RILEY. Yes, sir.

Senator WADSWORTH. Mr. Hall testified that considerably before that date the Argentine Government had actually lifted the embargo.

Mr. RILEY. On the 22d of May.

Senator WADSWORTH. On the 22d of May. But that lifting of the embargo was conditioned upon the purchase of sugar in the Argentine before exporting it, and depositing a certain percentage of the sugar somewhere with somebody.

Mr. RILEY. Yes, sir.

Senator WADSWORTH. The thing that puzzles me is why it was necessary for the American Trading Co. to wait, if the others didn't have to wait?

Mr. RILEY. I know nothing about that.

Senator WADSWORTH. Did De Ronde tell you they had applied for a permit?

Mr. RILEY. I don't remember it. I don't remember what that permit was for.

Mr. GLASGOW. I think I can explain that to you, Senator.

Senator WADSWORTH. I would be very glad to have you do it.

Mr. GLASGOW. The first permit for exporting, as I got it, was on the 23d of June, which required that anybody who was shipping sugar out of Argentina should deposit at the time 30 per cent of each shipment; that he should deposit with the people there in Argentina 30 per cent of the sugar they were purchasing for export.

Senator GOODING. Was that an export duty?

Mr. GLASGOW. They wanted to be sure there would be enough sugar left there for the people. Then, in case the sugar was not sold at a certain figure of 4.60 per 10 kilos, and 5.50 per 10 kilos for the pilet, he had that deposited with authority to sell it when they stopped all exporting. The American Trading Co. didn't buy that kind of pilet sugar, or whatever they call it, the pilet type. They bought the fine, white, granulated sugar. These gentlemen didn't buy any sugar down there at all. Somebody bought it there and made all the arrangements, as far as I can make it out, and these gentlemen bought the sugar delivered in New York. Whatever arrangements were made in order to enable the exportation of it under the permit of May 23 were made by the people who bought it down in the Argentine, don't you see?

Senator WADSWORTH. I see.

Mr. GLASGOW. These people didn't buy any sugar in Argentina. They bought sugar delivered in New York. The people that bought the sugar in Argentina had to make arrangements which this permit of May 23 required, and which was to deposit 30 per cent of the pilet type sugar with certain officials in the Argentine.

Now, in case the price of sugar on the market in Argentina rises above 4.60 per 10 kilos for granulated white sugar, or 5.50 per 10 kilos for refined sugar of the pilet type, then the people who had it on deposit were required to put that 30 per cent right on the market and all exportation was to stop right then. That is the situation as I understand it, and the only other permit I can get any information about under which the sugar that was purchased in Argentina was permitted to be exported. That is the only one I can make out, as far as my investigation goes, and I think that is correct.

Mr. RILEY. I think we are all confused in our minds between "permit" and "embargo." I think we are using the terms interchangeably when it should not be done. As I understand it, the American Trading Co. did not buy from people down there, but bought from themselves down there.

Senator WADSWORTH. Bought for themselves?

Mr. RILEY. And from themselves, from their own agents.

Senator WADSWORTH. They had agents of their own in that country?

Mr. RILEY. Yes, sir. The price, or the profit and loss they may have made, is not apparent on the face of that transaction.

Senator WADSWORTH. What do you mean by that?

Mr. RILEY. If they bought from themselves, what evidence is there of what they paid for it?

Mr. GLASGOW. I don't know about that.

Mr. RILEY. I don't know anything about it.

Senator WADSWORTH. Why did you make the statement?

Mr. GLASGOW. Do you mean they made an underhanded profit?

Mr. RILEY. I didn't say an underhanded profit.

Mr. GLASGOW. I represent the Sugar Board, and I would like to find out about that.

Senator WADSWORTH. What was the significance of that remark?

Mr. RILEY. The point is this: Here was sugar purchased delivered at this port. As a matter of fact, I believe it was bought in Argentina. I am not confident.

Mr. GLASGOW. Mr. Hall said that this morning.

Mr. RILEY. I mean bought there, but paid for delivered in New York.

The CHAIRMAN. As I understand it, you say that in bringing that sugar here they bought it of themselves down there?

Mr. RILEY. Of their own representatives, so we don't know anything about what it cost.

The CHAIRMAN. They might have made a profit on that purchase?

Mr. RILEY. I don't know anything about that. I have no information on it.

You say these people bought it in New York. They didn't buy it in New York. They bought it in Argentina to be delivered in New York.

The CHAIRMAN. It has not appeared in this investigation from whom they bought it, except in your testimony.

Mr. RILEY. I thought some one had testified to that.

The CHAIRMAN. There is nothing to show what they paid for it down there. Do you mean to say that the De Ronde Co. sold to themselves sugar to be delivered at New York?

Mr. RILEY. No, sir.

The CHAIRMAN. What do you mean?

Mr. RILEY. I say they did not do that.

The CHAIRMAN. You say they bought it from themselves.

Mr. RILEY. They bought it to be paid for delivered in New York.

The CHAIRMAN. I understand, but they agreed to pay it to somebody. To whom did they pay the money?

Mr. RILEY. I suppose to a variety of people. I understand the trading company bought from their own agents down there.

Senator GOODING. The question we want to get clear is this trading company, which is in the sugar business in the Argentine; to whom did they go to get this sugar?

Mr. RILEY. They had local agents, I understand.

Senator NORBECK. That does not seem like buying from themselves.

Senator WADSWORTH. I understood the witness to say the American Trading Co. purchased sugar from itself and then sold it.

The CHAIRMAN. Was he referring to the American Trading Co.?

Senator WADSWORTH. Yes.

The CHAIRMAN. You did not refer to De Ronde?

Mr. RILEY. No, sir.

Senator WADSWORTH. No; the American Trading Co.

The CHAIRMAN. I think that is important to know. If we are acting here on the theory of a bona fide purchase of sugar, and there was some intermediary of whom they bought it, who bought it in turn from somebody else, we want to know where the real purchase was made, and we want to know what the profit was.

Mr. RILEY. I think the situation has been magnified. They had these people purchase it, as I understand it, from a number of people down there.

Senator WADSWORTH. You are speaking of the De Ronde Co.?

Mr. RILEY. Yes, sir. The American Trading Co. purchased from their own branch house, or confidential agent, or whatever you might call it. That is the difference in it.

The CHAIRMAN. Suppose they did purchase from themselves—what is the object of that except to increase the price up here?

Mr. RILEY. Somebody would have to go out and buy the sugar on the market in Argentina.

The CHAIRMAN. Exactly. They have to buy the sugar there.

Mr. RILEY. Yes, sir.

The CHAIRMAN. And after they have bought it of these people—a perfectly legitimate deal—they had it there?

Mr. RILEY. Yes, sir.

The CHAIRMAN. To sell it to themselves, delivered in New York?

Mr. RILEY. Yes, sir.

The CHAIRMAN. Did they make a profit on that deal?

Mr. RILEY. I don't know.

Senator NORBECK. The delivery in New York was not the American Trading Co. It was De Ronde that bought to deliver in New York?

Mr. RILEY. Yes, sir. As I understand, they bought it in Argentina from their confidential agents. I may be mistaken, but that is the impression I have had. The De Rondes bought their sugar from various people in Argentina. Instead of buying it down there and bringing it up themselves, they said, "We will pay you so much for it landed in New York." Is that correct?

Mr. HALL. No; that is not correct. I have not interrupted, but I do not think there is the slightest difference between the way the American Trading Co.

bought their sugar and the De Ronde Co. purchases. They say they paid between 13 and 14 cents at Buenos Aires, or wherever they bought it, and with the cost of getting it up here and the 1 cent profit it was around 21.3 cents.

The CHAIRMAN. In making up the difference between the cost down there and what they got for it here, was there any profit?

Mr. HALL. I don't think so in either case.

Mr. RILEY. This gentleman brought out that it was different from these people who bought their sugar in New York.

Mr. HALL. It was simply a question of terms. We cabled the price, and they cabled and got the sugar down there and got the price afterwards.

The CHAIRMAN. Mr. Riley does not seem to know about that. If there is nothing else, we will excuse him and put some one on who knows.

Mr. HALL. I wanted to ask Mr. Riley, after this change that was spoken of in your authority, who then was the sole source of issuing licenses to dealers? Was that Mr. Figg?

Mr. RILEY. The Bureau of Licenses, who could not issue a license without my approval.

Mr. HALL. That was all put in your hands?

Mr. RILEY. Yes, sir.

The CHAIRMAN. That is all, Mr. Riley.

Mr. RILEY. I would like to say to this committee that having seen a good deal of the workings of one transaction, and all of the workings of the other transaction, as far as contact with the department is concerned, in my opinion one is identically the same as the other as far as being worthy of relief is concerned. I don't think either one of them has any legal claim, but Mr. Figg is not a lawyer and therefore did not hold himself to such strict lines as I did. He was a little more generous in his actions than I would be, but I think the equities are the same.

Mr. GLASGOW. May I ask one question? I notice in your letter, which had been written to get information about this, Mr. Riley, that you never said anywhere in that letter that De Ronde made an application to you to sell that sugar in Argentina.

Mr. RILEY. I did not.

Mr. GLASGOW. You spoke on that subject in your letter, and I consider that quite an important matter. You say this:

"There was considerable public notice given to the expected arrival of the sugar from the Argentine, the quantities of which were exaggerated in the press reports, and due to this and other causes the price of sugar in the United States declined quickly, and before the arrival of the sugar imported by your company from the Argentine the price had fallen below your cost. It was impossible to sell any considerable part of such a shipment on a declining market in America, and the Government had expressed its unwillingness that the sugar should be resold in Argentina."

Notwithstanding the fact that the sugar could have been disposed of there at a profit. Nowhere in this letter do you say De Ronde made a suggestion to you that he would like to resell in Argentina.

Mr. RILEY. I dare say there were a lot of things that were said that were not contained in that letter. I didn't say everything in that letter.

Mr. GLASGOW. When did he apply to you to resell that sugar in Argentina?

Mr. RILEY. I don't remember when it was any more than I remember any of these other specific dates.

Mr. GLASGOW. Where was it?

Mr. RILEY. New York.

Mr. GLASGOW. Do you know where in New York? New York is a pretty big place.

Mr. RILEY. What difference does it make?

Mr. GLASGOW. If you don't care to answer it, all right.

The CHAIRMAN. I think you should answer this. I think it is a proper question to be answered.

Mr. RILEY. I would say in my office or their office. It was wherever I might have met them. I had an assistant there who had an office at No. 2 Rector Street, where there was a large library like this, and I met these people there quite often from time to time. I don't know whether it was in their own office or in my office or at his office that I met them from time to time. I don't know whether it was No. 2 Rector Street or where it was.

The CHAIRMAN. Do you have a distinct recollection of his making application to you for permission to sell in Argentina?

Mr. RILEY. He said, "I can sell this sugar at a profit in the Argentines," I said, "It is against the regulations; against our agreement."

The CHAIRMAN. Fix that time with reference to some of the other things that are established in the case. Was that after the drop in sugar?

Mr. RILEY. Sugar then began to taper off from that time on, almost from that time on. That would not fit it, because the drop was continuous. It was probably in the early summer—June or July, I would say.

The CHAIRMAN. It must have been before the sugar was shipped.

Mr. GLASGOW. He bought the 15th of June. How long after that was it he made this application? Was it June or July?

Mr. RILEY. I can't say.

The CHAIRMAN. Have you any doubt in your own mind about the fact that he did ask you for permission to resell in the Argentines?

Mr. RILEY. That is just what he said: "I can sell this sugar now at a profit in the Argentine." I, of course, was up in arms about that, because I wanted it here, and I opposed that vigorously.

The CHAIRMAN. Then that must have been before the drop here in sugar, or you would have permitted him to sell it?

Mr. RILEY. I thought the drop would only be a little bit. I thought it was coming right up again. I thought it was a reaction from all of this. I knew that sugar was scarce, and I didn't think it would continue to go down, with the scarcity of sugar.

The CHAIRMAN. Notwithstanding the investigation you had made, there was a good deal more sugar hoarded than you knew about?

Mr. RILEY. Yes, sir.

Mr. GLASGOW. Can you tell about when that drop commenced?

Mr. RILEY. I think these gentlemen can tell you more about that than I can. I didn't follow the matter the way they did. You have your own men here.

Mr. GLASGOW. I have nobody here but myself.

The CHAIRMAN. That will probably be disclosed by some one else. Of course, if you do not know, you can not tell.

Senator WADSWORTH. I want to call attention to the fact that, apparently, from the record in the last Congress, the first time the American Trading Co. was informed that they could not resell in the Argentine was on August 2, in a letter written to them by Mr. Figg.

The CHAIRMAN. Senator Wadsworth, was the American Trading Co. trying to sell down there, too?

Senator WADSWORTH. They wrote a letter and asked permission to sell, and were definitely told in writing that they must not.

Senator GOODING. That was on August 2?

Senator WADSWORTH. That was on August 2.

Did you know, Mr. Riley, that the department would not permit the resale in the Argentine before August 2?

Mr. RILEY. Well, you see, I have nothing to gauge the date by except those letters. I didn't know what the date was until I saw that letter.

Senator GOODING. You were a party to bringing that sugar up here for a purpose?

Mr. RILEY. Yes, sir.

Senator GOODING. You could not permit it to be resold in the Argentine?

Mr. RILEY. Certainly not.

Senator GOODING. No question about that. I think that is clear.

Mr. RILEY. I was most emphatic about that.

Senator WADSWORTH. Was it before or after August 2 that Mr. Riley told the De Ronde people they could not resell their sugar in the Argentine?

The CHAIRMAN. If you know, tell him; if you do not, that ends it.

Mr. RILEY. I don't know. I would be glad to tell you, but I have no way of fixing that in my mind.

Senator RANSDELL. But you are perfectly positive that you did tell them they could not resell it, and after you told them that they did bring it to this country?

Mr. RILEY. If they brought it in, it was as a result of that.

Senator RANSDELL. It is clear in your mind that in the conversation with one of the De Rondes it was to the effect that De Ronde wanted to resell the sugar there, and you said, "No; it must come here"? You were very vigorous in your opposition.

Mr. RILEY. Yes, sir. I wanted to bring it to this country.

Mr. GLASGOW. When was it that you took charge and Mr. Figg was relieved from the general charge?

Mr. RILEY. I would say in May.

Mr. GLASGOW. Figg was conducting the negotiations with the American Trading Co.?

Mr. RILEY. Yes, sir; quite with my consent, because he had been dealing with them. That was the reason I pointed out this morning that there was no unpleasantness between Mr. Figg and myself. It was merely a matter of having one head. He was negotiating that transaction.

Mr. GLASGOW. You stated before it had been turned over to you.

Mr. RILEY. Yes, sir. I had no reason for injecting myself into it and taking it out of his hands.

The CHAIRMAN. That is all, Mr. Riley.

Mr. HALL. I would like to ask Mr. Riley what his present employment is, and whether he has any connection with any of the parties to this transaction?

Mr. RILEY. No, sir. I am divorced from the Government.

The CHAIRMAN. When?

Mr. RILEY. The 3d of March. I am not their counsel. I am in business.

The CHAIRMAN. What is your business?

Mr. RILEY. I am with John Wanamaker.

The CHAIRMAN. What is the nature of the business?

Mr. RILEY. Merchandizing office. I started with them the latter part of March. I had been in the Government service before that, and I had been in the Army. I had been out of the practice for three years, and I did not attempt to go back and build up another practice.

Mr. HALL. Frank S. De Ronde, who is vice president of the De Ronde Co., can give you gentlemen some information about the quantity of sugar, and I think about the sale, although I understood at lunch he did not have all the details here.

Mr. Philip De Ronde, who had all the negotiations with Mr. Riley, is not in this country. He sailed for Europe some time in April, but he is on the *Aquitania*, having sailed last Saturday for the United States. If you gentlemen want his story, to find how it checks up with Mr. Riley, I will have to ask you to lay the hearing over until next Tuesday for that purpose, and I will have him here then. He is on the water now.

Mr. Frank S. De Ronde, vice president of the company, is more or less familiar with some of the details.

Mr. GLASGOW. I want to know when this sugar was loaded in Argentine. He ought to be able to tell us that.

The CHAIRMAN. Let us get the witness on the stand and find out.

The CHAIRMAN. Mr. De Ronde, I believe you put in the record a statement of the exact amount of your claim.

Mr. DE RONDE. Yes, sir.

The CHAIRMAN. And you claim to have had a contract with one Mr. Riley to furnish this sugar?

Mr. DE RONDE. Mr. Riley; yes, sir.

The CHAIRMAN. You claim to have a contract with him?

Mr. DE RONDE. I do not know that anyone claimed to have any contract. We claim to have had an authorization from Mr. Riley, and the sugar was brought in at his request.

Mr. ASWELL. Do you think a verbal agreement is binding?

The CHAIRMAN. Was there a guaranty to make good the contract?

Mr. DE RONDE. There is a letter from Mr. Riley in the brief which I submitted yesterday confirming the arrangement he made with us.

The CHAIRMAN. And what was that arrangement? Was it an agreement to reimburse you for any loss?

Mr. DE RONDE. No, sir; there was no arrangement to reimburse us for any loss. There was nothing said about loss. At their request and the request of the Department of Justice, for whom Mr. Riley was acting, we brought this sugar in, as I stated yesterday, to be sold under the direction of the Department of Justice, and at the prices stated by the Department of Justice at the time, and to the people they might indicate, with a gross profit to us of 5 per cent.

The CHAIRMAN. Did he claim to have any authority under the law to authorize anything of the kind or to obligate the Government?

Mr. DE RONDE. No, sir.

The CHAIRMAN. Or to create a legal liability?

Mr. DE RONDE. He did not.

The CHAIRMAN. Do you claim, then, that this is a moral obligation?

MR. DE RONDE. I claim, as I stated yesterday, as a layman, that we believe there is a moral obligation on the part of the Government.

THE CHAIRMAN. Then, your claim is exactly like Mr. Franklin's?

MR. DE RONDE. Yes, sir; we think so.

MR. ASWELL. I started to ask you if you considered a verbal agreement a binding contract?

MR. DE RONDE. Well, as I stated yesterday, I am not an attorney, and I do not know that I would be able to give an opinion on that. I have always understood, as a business man, that a verbal agreement between men was just as binding as a written agreement. That is simply my understanding. I am not able to give a legal opinion.

THE CHAIRMAN. I think it is generally understood that a verbal agreement is just the same as a written one. The question is whether you had a verbal agreement.

MR. DE RONDE. Yes, sir.

THE CHAIRMAN. Is it your claim that this is a legal obligation?

MR. DE RONDE. I do not claim it is a legal obligation.

THE CHAIRMAN. Just a moral obligation?

MR. DE RONDE. Yes, sir.

THE CHAIRMAN. Then, there is no verbal or written agreement about it.

MR. DE RONDE. Yes, sir; there is a verbal agreement. There was a verbal agreement with regard to bringing in the sugar and that we should be paid this price.

THE CHAIRMAN. Had you an agreement that it should be brought in at a certain price and that a certain price should be paid for it?

MR. DE RONDE. No; there was no stipulated price, although he was to advise us of the price when it was brought in. The agreement was we should sell it at the prices indicated by the Department of Justice, when they were ready to give us the names of people we could sell it to.

MR. TINCER. Mr. De Ronde, I understand you had your transactions entirely with Mr. Riley and none of them were with Mr. Figg.

MR. DE RONDE. None whatever. They were all with Mr. Riley.

MR. TINCER. I understand by reading the Attorney General's letter to Mr. Moses, in the record here, that Mr. Riley had the same authority from him that Mr. Figg had.

MR. DE RONDE. My understanding is that he did; yes, sir.

MR. TINCER. Now, the proposition that appeals to me—and I think your claim demonstrates it—it is a question for this committee to decide upon a policy as to whether or not they are going to pay all the moral obligations that are on this Government by reason of the transactions we had through the administration of the so-called war laws. The sugar equalization act and the Lever Act were war laws. They have now been repealed. This same law—the Lever Act—provided for the Food Administration, and under that act the present Secretary of Commerce of the United States was given the administration of it, and he went over the land and persuaded, for instance, the people who were engaged in agriculture in the State of Iowa to keep all their brood sows or gels that could be used for breeding purposes, and breed them and raise more hogs, under a guaranteed price fixed by the Food Administration of so much money per hundred for the pork when it was produced. The guaranteed price did not materialize. They kept their brood sows and raised their hogs and have lost money and are now in bankruptcy, and, as a consequence, the great State of Iowa, which has always been regarded one of the great agricultural sections of this country from a financial standpoint, is perhaps in the hardest way financially to-day of pretty nearly any State in the Union. The banks of the State of Iowa have used the Government agencies, such as the War Finance Corporation more, and have more applications pending to lend people money that are really up against it financially than any State perhaps in the Union. I will be fair with you. I think your claim and your transaction is as straightforward as any transaction could be.

You went to the man authorized by the Attorney General, under the Lever Act, or rather, he went to you, and had these transactions with you, and if there is such a thing as a moral obligation connected with any of these sugar claims you perhaps have it, but the question, it seems to me, is whether this Congress can afford to segregate the sugar moral obligations from all the other moral obligations. I have a bill pending here in reference to a situation where this same Food Administration, under this same Lever Act, out of the exigencies of war, not after the war, but right during the war, fixed the price of wheat

that every man had in his possession, whether he had bought it the day before for \$3 or whether he had produced it. They fixed the price at \$2.20 and odd. The payment of those claims would involve the payment of claims where men had actually bought wheat under direct representations from the Food Administration that there would be no fixed price, and if they bought it at \$3 they had to sell at \$2 and something. This would involve payment out of the Treasury of some \$230,000,000 or \$250,000,000. I take it that your claim is exactly the same as others if we are to pay these moral obligations which some Members of Congress say we must pay. Mr. Chalmers, a Member of Congress from Ohio, appeared before the committee day before yesterday and insisted that we must pay all of them. I think if we are to pay any of them we should pay all of them, and my contention is that this committee should decide upon a policy as to the payment clear-cut, moral obligations, that we owe our citizens and treat them all alike.

Mr. RIDDICK. Mr. Tincher, may I ask you whether you think your bill ought to pass?

Mr. TINCHER. If the condition of the Public Treasury would possibly stand it, it ought to pass. It is clearly a moral obligation which is denied by no one. No one who has ever appeared before this committee, even including Mr. Hoover himself, Mr. Barnes, and all the other gentlemen, have denied that. I have asked them about the merits of that bill, and they have admitted a clear-cut moral obligation on the part of the Government; but we have an empty Treasury and somebody has got to pay the money into the Treasury before we can pay it out. Mr. De Ronde's claim simply proves a contention I made when Mr. Glasgow was here. I said to Mr. Glasgow when he was on the stand testifying in favor of the Franklin bill that if we paid that bill there were undoubtedly other moral obligations that we owed, and he said, "No," and stated that if we tried to pay any others he wanted to know about it. We do not have to send for Mr. Glasgow or anyone else to know that the De Ronde people had just as clear-cut an arrangement with the Government, and that there is just as much a moral obligation on their part to settle that bill as any other bill that has been testified to here. We also know about the Iowa situation. The chairman of this committee knows about the representations which were made during the war to people engaged out there in the production of meat, and you do not have to go further than to read the newspapers to know their financial condition now. Anyone will tell you that every one of those gents that the farmers took out of the fattening pens to put in the brood pens cost him \$5. It seems to me the whole proposition is a question of policy, and that is a serious question.

Mr. CLARKE. I am certainly in favor of meeting every one of them if they can be brought in here and each one demonstrated as a clear, moral obligation. In principle I think any other policy is indefensible. I think it destroys the confidence of people in their own Government if we do not go further than half way in meeting the obligations of the Government whatever they are.

Mr. TINCHER. We have had such claims resulting from the Civil War up to the present time. There are still claims pending before committees of Congress based on moral obligations created by agents of the Government during the Civil War.

Mr. CLARKE. I know that.

Mr. TINCHER. Of course they are claims, as you say, which should be scrutinized very carefully.

Mr. CLARKE. Each one brought here should be considered on its own merits.

Mr. PURNELL. Gentlemen, is not that a matter which more properly should be considered when we come to a final determination of the policy in the individual cases.

Mr. TINCHER. But here is a proposition I want to ask Mr. De Ronde about. Mr. Glasgow said here that he was not going to pay your bill even if Congress passed the same resolution we do for the Franklin people, and unless he was told specifically he had to pay you so much money he would not settle your claim. What have you to say about that. That is virtually what he testified to here.

Mr. DE RONDE. That is what he said; yes, sir.

Mr. PURNELL. I did not so understand Mr. Glasgow's testimony.

Mr. JONES. Yes; he testified to that, the way I understood him.

Mr. CLARKE. I do not think he went quite that far.

Mr. WARD. He did not mention any name, but he said he would not pay any other claim unless he was so directed.

Mr. TINCHER. We all knew what he was talking about, but I do not think he has any right to set himself up as a judge of whether he will cut one fellow out of the resolution.

Mr. DE RONDE. Of course I have my own personal opinion regarding the statement, and I leave it to the committee to be the judge and to weigh what he said.

Mr. ASWELL. It is not impossible for the President to appoint a new board to manage the affairs. That is not impossible, is it?

Mr. KINCHELOE. I am frank to say that I do not see why your claim is not just as meritorious as the claim of the American Trading Co. I think they are absolutely on the same basis so far as that is concerned. I want to ask you a question, Mr. De Ronde. You say in your statement that Mr. Riley first came to your firm in the latter part of May.

Mr. DE RONDE. Yes, sir.

Mr. KINCHELOE. And presented this proposition to you, and at that time you refused it.

Mr. DE RONDE. Yes, sir.

Mr. KINCHELOE. Then he came back the first part of June and you entered into the negotiations which you have set out.

Mr. DE RONDE. Yes, sir.

Mr. KINCHELOE. Did your firm or any member of it at any time from the time that Mr. Riley first came to you in the latter part of May presenting this proposition consult your legal advisers, your attorneys, as to whether it would be a safe thing to do or whether you should have any contract with him or whether there was any question of loss to be figured in in any way. Did you consult your legal advisers about that at all?

Mr. DE RONDE. We did not.

Mr. KINCHELOE. Is not that the practice of a big concern like yours, that has legal advisers?

Mr. DE RONDE. No, sir.

Mr. KINCHELOE. Who, I presume, hire attorneys by the year for this sole purpose.

Mr. DE RONDE. Yes, sir; we do. We have various legal advisers whom we consult when we get in trouble, but we very rarely consult an attorney about a business transaction.

Mr. KINCHELOE. As to the legal phase of it? I am just asking these questions for information.

Mr. DE RONDE. No, sir. We considered we were going into a safe business or we would not have entered into it. As I stated yesterday, our entering into it at all was based primarily on the great confidence we had in Mr. Riley, whom my partner had known for many years.

Mr. KINCHELOE. And there was never a question of loss discussed between any member of your firm and Mr. Riley at all about the matter.

Mr. DE RONDE. No, sir.

Mr. ASWELL. Then when you discovered there was actually a loss, he told you to work out your own salvation?

Mr. DE RONDE. He did.

Mr. VOIGT. Did you try to resell this sugar in the Argentine?

Mr. DE RONDE. We did. I beg your pardon, let me correct that statement. We did not. We asked Mr. Riley if we could sell it in the Argentine. We believed we could, and, as I stated yesterday, he insisted that we bring the sugar on to New York. He wanted it there and also stated, as I said yesterday and as stated in previous hearings, that if we should attempt to resell this sugar in the Argentine it would interfere seriously with diplomatic relations.

Mr. PURNELL. You tried to get permission to return the cargo to the Argentine even after it had come to New York, did you not, Mr. De Ronde?

Mr. DE RONDE. Yes, sir.

Mr. PURNELL. And that permission was refused?

Mr. DE RONDE. Yes, sir.

Mr. CLAQUE. Mr. Chairman, being one of the new members of the committee, I have read all the evidence before the committee and all the evidence before the Senate committee. I was not just satisfied with that. I wanted to hear direct from the Department of Justice regarding this bill, and on my own

initiative, on the 13th of December, I wrote to the Department of Justice as follows:

DECEMBER 13, 1921.

Hon. HARRY M. DAUGHERTY,
The Attorney General.

DEAR GENERAL DAUGHERTY: I inclose printed H. R. 161, providing for liquidation of sugar transaction of P. De Ronde Co., made at the request of the Department of Justice in June, 1920. This claim is similar to that of the American Trading Co., in which case you testified during the last session.

I might also state that an identical resolution was introduced in the Senate by Senator Frelinghuysen, reported favorably, and is now on the calendar of the Senate. I would appreciate your advice as to the advisability of the passage of this resolution.

Very truly, yours,

This letter is the reply from the Department of Justice, as follows:

DEPARTMENT OF JUSTICE,
Washington, D. C., January 5, 1922.

Hon. FRANK CLAGUE,
House of Representatives, Washington, D. C.

DEAR SIR: Your letter of December 13, 1921, inquiring as to the advisability of the enactment of H. R. 161, for the relief of Ronde Co., has been received.

When the Attorney General appeared before the House Committee on Agriculture last June, as appears from the transcript of his statement, he expressed the view that there was a moral obligation, and perhaps a legal obligation, upon the Government to indemnify the American Trading Co. and Howell & Co., as is proposed in H. J. Res. 78, for losses sustained in the transaction out of which the loss of Ronde Co. arose. Committees of both Houses considering legislation to afford this relief having, as I understand, had all papers and heard all persons having personal knowledge in the matter, are acquainted with the facts. In view of the peculiar obligation upon the Government in this case, in which I believe there is a general acquiescence, it seems to the department that the legislation should be passed, whether there is a strict legal liability or not. Perhaps it would be supererogatory to test the legality of the claim in the courts, since no matter what the event, if Congress is inclined to honor such a claim upon the moral ground it ends in necessity for action by that body.

Respectfully,

GUY D. GOFF,
Assistant to the Attorney General
(For the Attorney General).

The reason particularly that I wrote the Department of Justice was this: If this committee deems it a proper policy to pass these resolutions, particularly the ones relating to the American Trading Co. and Mr. De Ronde's claim, I wanted to know whether the Department of Justice felt it would be their duty to commence an action or to reverse the action of the Congress should this legislation be passed, and it was for that reason particularly I wrote to them and wanted to get their views directly upon this question. I ask permission to file this letter and will also file my letter which I wrote to the department in order that the committee may have the benefit of all the correspondence.

Mr. VOIGT. Mr. De Ronde, have you this attorney's statement in the record where he declined to let you resell this sugar in the Argentine?

Mr. DE RONDE. Yes, sir.

Mr. VOIGT. I know there is a statement from you to that effect, but is there one from him?

Mr. DE RONDE. Yes, sir; it is in the record of yesterday.

Mr. VOIGT. I think the strongest point in this case is that they would not let you resell this sugar.

The CHAIRMAN. Have you any other witnesses, Mr. De Ronde?

Mr. DE RONDE. No, sir.

The CHAIRMAN. Then I believe that concludes the hearings.

Mr. DE RONDE. Mr. Chairman, if you have finished with me, I want to extend to the chairman and the members of the committee my thanks for the very courteous treatment accorded me while presenting my data to the committee.

The CHAIRMAN. We are grateful to you, Mr. De Ronde.

(The committee thereupon adjourned until Monday, January 30, 1922, at 10 o'clock a. m.)

(The following occurred following action on the Ward sugar resolution February 3, 1922:)

Mr. WILLIAMS. Let us take up the other sugar resolution and vote on it.

The CHAIRMAN. The chair lays before the committee S. J. Res. 79, a joint resolution authorizing the President to require the United States Sugar Equalization Board to take over and dispose of 5,000 tons of sugar imported from the Argentine Republic, etc.

Mr. CLAGUE. Is that the Senate resolution?

The CHAIRMAN. Yes. That is the way you desire to have it brought up, Mr. De Ronde?

Mr. DE RONDE. Yes, sir.

Mr. WILLIAMS. Mr. Chairman, I do not see any difference between this claim and the one we just voted on, notwithstanding the apparent attitude of the State Department, and as the vote of the committee was so pronounced in favor of recognizing these moral obligations, I move that this resolution be reported out favorably.

Mr. CLAGUE. I second the motion.

Mr. McLAUGHLIN of Michigan. Mr. Chairman, I voted to report favorably the first resolution, but I see a big difference between the two resolutions and the two cases. I can not see any merit in this claim set forth in Senate resolution 79. I can not find anywhere that the Government of the United States had anything like the same arrangement with De Ronde & Co. I do not learn it from the State Department and I do not learn it from the Department of Justice. There is a statement here by a man named Riley, who was connected with the Attorney General's Department, to the effect that in his opinion the two claims are similar, and that is the only thing they have supporting the claim of the De Ronde Co. There is a letter by the former Attorney General to the effect that in his opinion all that the Department of Justice did was done in good faith and was legal, but the Attorney General expresses no opinion on the claim.

Mr. ASWELL. The present Attorney General does. Attorney General Daugherty expressed an opinion on it.

Mr. McLAUGHLIN of Michigan. On this De Ronde claim?

Mr. ASWELL. Yes. Mr. Clague has the letter, and it was put in the record the other day.

Mr. McLAUGHLIN of Michigan. I have not seen anything official.

Mr. CLAGUE. This is the letter, and I would like to have the clerk or Mr. McLaughlin read it.

Mr. McLAUGHLIN of Michigan. This is a letter dated January 5, 1922:

(The letter was read by Mr. McLaughlin of Michigan, and is a part of the record of the previous hearing.)

Mr. McLAUGHLIN of Michigan. That is his opinion, but I have not seen any official papers that would justify his conclusion. I have reached a different conclusion from all the papers, official and otherwise, submitted in respect to this De Ronde claim.

Mr. PURNELL. I would like to ask you, Mr. McLaughlin, whether when you examined the other papers in the Secretary of State's office you saw there any communications from the De Ronde Co. asking to be reimbursed, and any refusal on the part of the State Department for the reasons you stated before, namely, that only the American Trading Co. was acting for the Government?

Mr. McLAUGHLIN of Michigan. I can not remember that the name of the De Ronde Co. appeared at all in that correspondence. That is my recollection of it.

Mr. DE RONDE. May I answer that question? We never wrote the State Department a word, sir, because the State Department had nothing whatever to do with our case.

Mr. ASWELL. Did you buy your sugar delivered in New York?

Mr. DE RONDE. Yes, sir.

Mr. ASWELL. Then you had no dealings with the State Department?

Mr. DE RONDE. No, sir.

Mr. PURNELL. You had no transactions whatever with the State Department?

Mr. DE RONDE. No, sir.

Mr. PURNELL. All of your transactions were with the Department of Justice?

Mr. DE RONDE. Entirely; yes, sir.

Mr. ASWELL. Mr. Chairman, I voted for the other resolution, but my individual judgment is that this is a much stronger case than the other one.

Mr. KINCHELOE. Mr. Chairman, I want to say that having voted against the other resolution I would not be consistent if I voted to report this one out. I have tried to study these cases impartially. I do not know any of these gentlemen and never heard of them until I came on this committee, and my conclusions in these cases are that I do not think there is any legal liability at all in either one of them. I do not think they would last in court an hour. I do not think there is any moral obligation to stand these losses. There is not a line of evidence that I have been able to read—and I have tried to read most of it—where anybody undertook to guarantee against any losses or that there was anything said about losses in either one of these transactions.

Mr. ASWELL. The price of sugar was so high that nobody at that time ever dreamed that there could be a loss.

Mr. KINCHELOE. I understand; but I am talking about the moral end of it. No assurance was given by any representative of the Government, as this testimony discloses, guaranteeing against one cent of loss. These men took a chance and they lost. Millions of people do that; not only the Government, but everybody else. However, if there is any obligation at all, it is a moral obligation, and if Mr. Riley, who was a member of the Department of Justice, just the same as Mr. Figg—I have read his evidence in the Senate hearings—and if he is to be believed, and I believe he is entitled to just as much credit as Mr. Figg, who was connected with the same department of the Government, he thinks this is a moral obligation. I notice on page 37 of the Senate hearings Senator Caraway asked Mr. Riley this question:

"Senator CARAWAY. Did you understand you had authority to take that action [that is, the action he took with the De Ronde Co.]? Not the question whether you did or not, but did you think you had?"

"Mr. RILEY. Oh, yes.

"Senator CARAWAY. And you made it in good faith?

"Mr. RILEY. Yes, sir."

The point I make, so far as I am concerned, is that if Mr. Riley is to be believed, and I think he is, just as much as Mr. Figg, this is just as much of a moral obligation that the Government owes as the claim of the other people. However, I could not be consistent and vote for one and against the other, but I think this is just as meritorious a claim as the other one. They had no occasion to have any correspondence with the State Department because of the fact that this sugar was paid for in New York. I just wanted to make that statement so far as I am concerned.

Mr. WILLIAMS. Mr. Chairman, I make the motion to report out the resolution because of the fact that another resolution of a similar character for another company has, by a vote of more than two to one, been voted out of the committee, and if that company is to have the opportunity of going on the floor of the House and having its claim considered, I think other people with similar claims against the Government should have the same right, and I do not think the committee should discriminate by reporting out some of these claims and withholding others.

(The motion, having been duly seconded, prevailed.)

The CHAIRMAN. Who will report out the resolution?

Mr. WILLIAMS. I move that Mr. Clague report it out.

Mr. KINCHELOE. I would like to have the right, not specially delegated to me, but the right given to file a minority report.

The CHAIRMAN. That is understood, and Mr. Ward has given assurance that ample time will be allowed to file a minority report on the other resolution, and it is understood that the same opportunity will be given with reference to this bill.

Mr. SINCLAIR. What do you consider as ample time?

The CHAIRMAN. Say a week or 10 days.

Mr. WILLIAMS. Suppose we make it 10 days. That is agreeable to me.

(The motion, having been duly seconded, prevailed.)

(The committee thereupon proceeded to the consideration of other executive business, after which it adjourned.)





PURCHASE OF FOREST LANDS

HEARINGS

BEFORE THE

COMMITTEE ON AGRICULTURE

U.S. Congress HOUSE OF REPRESENTATIVES

SIXTY-SEVENTH CONGRESS

SECOND SESSION

JANUARY 13 AND 14, 1922

Serial N



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COMMITTEE ON AGRICULTURE.

HOUSE OF REPRESENTATIVES.

SIXTY-SEVENTH CONGRESS, SECOND SESSION

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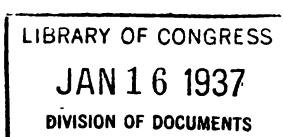
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PURCHASE OF FOREST LANDS.

COMMITTEE ON AGRICULTURE,
HOUSE OF REPRESENTATIVES,
Friday, January 13, 1922.

The committee met at 10 o'clock a. m., Hon. Gilbert N. Haugen (chairman) presiding.

Also present: Representatives McLaughlin of Michigan, Tincher, Sinclair, Thompson, Clague, Clarke, Jacoway, Aswell, Kincheloe, Jones of Texas, and Ten Eyck.

The CHAIRMAN. The committee has met this morning to give consideration to H. R. 9667, to authorize appropriations for expenditures under the act of March 1, 1911. Mr. Sherman, we will be pleased to hear you.

STATEMENT OF MR. E. A. SHERMAN, ASSOCIATE FORESTER, DEPARTMENT OF AGRICULTURE.

Mr. SHERMAN. Mr. Chairman and gentlemen of the committee, you are starting this morning on the fifth consecutive day of hearings on forestry measures. I know you realize the gravity of the situation and that something should be done. I know you want to reach a conclusion at the earliest possible date consistent with the public welfare. It is my hope we may be able to finish the hearing this forenoon. I will say just a few words in explanation of the measure and the purpose of bringing it before you at this time.

The committee will remember that in the appropriations for the fiscal year 1922 the Agricultural appropriation bill carried an item of \$1,000,000 to enable the National Forest Conservation Commission to continue purchases of lands on the headwaters of navigable streams under the provisions of the Weeks law. The committee will also remember that a point of order was made on that item upon the ground that it was new legislation and should have been reported out by this committee. You will also remember that the point of order was lost by a rather narrow margin. The estimates for the coming fiscal year for the Department of Agriculture carry a small item for this work. In discussing it with the chairman of the subcommittee on agriculture of the Appropriations Committee the position was taken that inasmuch as a point of order had been raised against this question previously he felt it was wise to have it brought before the Agricultural Committee to again reaffirm the policy.

The CHAIRMAN. Not to reaffirm the policy, the ruling. I do not think we could say that the committee reaffirmed what was ruled out on a point of order. I take it that no one wants that ruling made again. I think that is pretty clear, and for that reason they come to this committee now to get the matter straightened out.

Mr. SHERMAN. I may not exactly have understood the attitude of the chairman of the subcommittee. That, of course, is a matter for you to determine. He said he felt that last year, since this committee did not at that time have an opportunity to hold hearings on this measure, and that it had previously reported out three appropriations which Congress had approved for carrying on purchase work, he felt at that time it would be unwise for their committee not to report out such a measure, since that would result in a discontinuance of the work; but that at this time we do have an opportunity to consider the matter of policy upon its merits and to take action in accordance with the judgment of this committee, and he advised me that if the policy was approved by this committee that, so far as the Appropriations Committee were concerned, they would be prepared to recommend an appropriation of an appropriate sum to carry on the work.

Mr. CLABKE. Pardon me, who said this?

Mr. SHERMAN. This was a statement of the chairman of the subcommittee on agriculture of the Appropriations Committee.

Mr. CLARKE. Mr. Sydney Anderson?

Mr. SHERMAN. Yes; and he wished the matter of policy to be determined by this committee.

Mr. McLAUGHLIN of Michigan. Did he speak as if he thought it would be enough for the committee to express its opinion as to what the policy ought to be or to report a measure and put it through the Congress?

Mr. SHERMAN. He felt that, so far as he was concerned, at any rate, it would be sufficient for this committee to express its approval of the item.

Mr. ASWELL. I presume he meant to express it by passing a bill through the House.

Mr. McLAUGHLIN of Michigan. That is what I thought.

The CHAIRMAN. A point of order would undoubtedly be sustained unless it passed both Houses and was approved by the President.

Mr. ASWELL. We would have to put the bill through both Houses of Congress and have it signed by the President in order to make it not subject to a point of order.

The CHAIRMAN. Yes; if proceeded in the proper order under the rules.

Mr. ASWELL. It might have a good moral effect if the committee should act on it.

Mr. SHERMAN. At any rate, that is what was suggested, that a measure of this kind be introduced and brought before this committee.

Mr. McLAUGHLIN of Michigan. Have you a copy of the Weeks law? It has been spoken about here a number of times and it seems there is a great deal more in it than I remember. They talk about fire protection and cooperation with the States and a division of money and all that sort of thing which I do not recall.

Mr. SHERMAN. I have a copy here.

Mr. ASWELL. May I inquire whether you have certain other lands in mind that you are ready to purchase now?

Mr. SHERMAN. We have.

Mr. ASWELL. To what extent?

Mr. SHERMAN. Following the statement I have just made, I would like to introduce the next witness who will give you all the facts as to that. I have observed during the last four days that the committee wants facts and figures.

Mr. ASWELL. Briefly stated.

Mr. SHERMAN. Briefly stated, and that when the \$50,000,000 purchase item was before you, you did not get the exact information you desired. We are prepared now to submit as to this item our complete program in so far as it has been possible to work it out. I will ask that you allow the next witness to lay our cards on the table and then proceed with the cross-examination, if you will.

The CHAIRMAN. Mr. Sherman, I notice this bill provides for the appointment of a commission. Is it the purpose to appoint a new commission?

Mr. SHERMAN. Not at all. This bill simply authorizes the appropriation of money for the continuance of the work.

STATEMENT OF MR. L. F. KNEIPP, ASSISTANT FORESTER, DEPARTMENT OF AGRICULTURE.

Mr. KNEIPP. Mr. Chairman and gentlemen: I have here data bearing on the following points and am prepared to submit them so far as the committee desires to hear them: First, on the original plan of the eastern national forests and the reasons therefor; second, on the expenditures and the acreage acquired to date; by regions, States, and purchased units; third, on the present situation, the progress which has been made and the results to date; and, fourth, on the subject of future plans—first, on the basis of the appropriations contemplated by Mr. Wason's bill, 9667; second, on the basis of an appropriation of \$2,000,000; third, on the basis of the \$50,000 provided in the Budget for 1923.

Mr. CLARKE. \$50,000?

Mr. KNEIPP. \$50,000 is what the Budget provides.

The CHAIRMAN. For the acquisition of land?

Mr. KNEIPP. For the acquisition work; yes, sir.

Mr. ASWELL. Is that for next year or this year?

Mr. KNEIPP. That is for next year, 1923.

Mr. ASWELL. So this would be an additional appropriation to the appropriation under the Budget.

Mr. KNEIPP. This bill, 9667, contemplates an appropriation which is not in the Budget.

Mr. ASWELL. An additional appropriation?

Mr. KNEIPP. Yes, sir.

The CHAIRMAN. Two million dollars for 20 years or a total of \$40,000,000.

Mr. KNEIPP. Yes, sir.

Mr. TINCHER. How did they arrive at that \$50,000 through the Budget Bureau.

Mr. KNEIPP. Rather arbitrarily, I think.

Mr. ASWELL. They cut it down as low as possible.

Mr. KNEIPP. They cut it down to the absolute minimum amount that would retain a few of the most highly experienced men in the present organization.

Mr. ASWELL. Who did that cutting?

Mr. KNEIPP. The Budget Bureau.

Mr. ASWELL. I know it was done in the Budget Bureau, but by which one of them.

Mr. KNEIPP. That I could not tell you.

Mr. TINCHER. I understand that \$50,000 was for the acquisition of land, but you say it is just enough to keep the men working.

Mr. KNEIPP. I separated it in that way so as to show what our plans are on either one of the three bases, so the committee would understand the situation.

Mr. TINCHER. It ought not to take many men to buy land now.

Mr. KNEIPP. The movement for the eastern national forests took practical form in 1899, and the act was passed in 1911. During the period of about 12 years when the movement was under consideration, it received the attention of 6 different Congresses and was the subject of 47 different bills and resolutions. There were very extended debates on the subject. Meetings were held and there was a great deal of scientific discussion. President McKinley discussed the subject favorably in a message to Congress and President Roosevelt did the same thing. There were detailed field examinations made. As a basis of all this 12 years of consideration, there was a very definite plan formulated immediately following the passage of the bill. This plan contemplated the acquisition of approximately 1,000,000 acres of land in the White Mountain region and of approximately 5,000,000 acres of land in the southern Appalachian region.

The reasons for limiting the eastern national forests to these areas were about as follows: In the western United States, the States practically on the other side of the Mississippi River, almost all of the important streams have their headwaters in national forests already established. That would be true of the Milk River, the Little Missouri, the North and South Platte, the Arkansas, the Pecos, the Rio Grande, the Colorado, the Sacramento, the Rogue, and the Columbia. All of those streams largely originate in national forests that have been established for many years. In the Adirondacks and Catskills the State forests of New York already formed a very desirable degree of protection to the streams originating there. In the Lake States it was believed at that time that because of the relative level quality of the land, the character of the soil, the relation of the wooded areas to the navigable streams and the effect of the innumerable lakes, it would be difficult to find areas of sufficient size for proper administration that would receive the approval of the Geological Survey, which is required by the Weeks law to give their approval to all such areas.

Mr. CLARKE. I did not quite understand that.

Mr. KNEIPP. I say that in the Lake States it was felt that the country was so level and the soil was of such a character and the influence of the innumerable lakes was so great that it would be difficult to get the Geological Survey to approve areas in that region at that time. On the other hand, the southern Appalachians and the White Mountains are very broken, rugged, with relatively high elevations, with steep slopes and types of soil that erode very easily, and within that range the logging operations are very extensive and very intensive. On the other hand, fire damage is high, and the relation to navigable streams is very important, because many of the important navigable streams of the East find their origin in that range of mountains. So that is the reason purchases were concentrated within that general range of country.

In the course of time the plan was modified to a very limited degree by including the Alabama National Forest in Alabama, the Arkansas and Ozark forests in Arkansas, merely to permit minor consolidations and to acquire some lands which could not be obtained by exchange or from the public lands.

More recently an area was established in northwestern Pennsylvania on the North Fork of the Allegheny River as a part of the whole scheme of flood control that is being considered in western Pennsylvania. The flood losses in and around Pittsburgh are, of course, very heavy, and the plans of the Pittsburgh Flood Commission clearly recognize the important relation of forest regulation to this big problem.

Those facts are the ones which have led up to the present system of eastern national forests as established under the Weeks law.

I have here a map which shows graphically the present eastern national forests. Those in dark green are the ones already established. Those in light green are the ones that are tentatively considered in connection with future work. These blocks show the relative area of each forest and the parts that are hatched show the part that has been acquired.

Mr. McLAUGHLIN of Michigan. Relative to what?

Mr. KNEIPP. Relative to each other. Two inches is equivalent to 1,000,000 acres. For example, in the White Mountains, you will notice about 2 inches which represents about 1,000,000 acres, of which we have acquired 443,000 acres so far.

Mr. SINCLAIR. The dark color represents that which has been acquired?

Mr. KNEIPP. That represents those which are already established, and the light color those which are considered in connection with future plans, and these little blocks show the rate of progress made to date in acquiring lands within the limits of these areas. The white shows what remains to be acquired. In some instances there has been none acquired, as in the Allegheny and down here in Smoky Mountains, and over here in the Yadkin, and up here in the Youghiogheny.

Mr. McLAUGHLIN of Michigan. What is that spot in the northeastern part of Michigan?

Mr. KNEIPP. That is an area where we believe a national forest ought to be established. The dark colors are national forests now in existence. The light colors adjoining them and connecting are areas which we think ought to be under Government ownership.

Mr. CLARKE. What is the red in Minnesota?

Mr. KNEIPP. That is a tract of land that is now in an Indian reservation, the Red Lake Indian Reservation, upon which there are 107,000 acres of timbered land. It is unallotted land and undoubtedly will be disposed of, and it is felt that that constitutes an area of this kind and has a very important relation to the headwaters of the Mississippi; and adjoining that is a large area of land in private ownership which would be very desirable for a national forest.

Mr. McLAUGHLIN of Michigan. What is the river you would protect up there near the Soo in Michigan?

Mr. KNEIPP. Mr. McLaughlin, I could not tell you the name of the river. I have some memoranda here, but I am not personally familiar with that section of the country. This area was not examined by me personally.

Mr. McLAUGHLIN of Michigan. I can not think of any river up there that is threatened with navigability except the St. Marys River, which is the boundary line between the two countries.

Mr. KNEIPP. I might mention in this respect that with regard to certain of these areas, it probably would require a modification of the existing restriction to navigable streams to carry out this plan, although in a majority of instances it would not, but in some of these cases in the Lake States, there is some question as to whether the Geological Survey would find a sufficient relation between the forest and the navigability of a stream to justify creation under the present act; but this is a part of Michigan where Government ownership of a tract of forest land would be in many respects desirable in developing better forest control all through the region.

Mr. CLARKE. What is that area in Louisiana?

Mr. KNEIPP. There is an area here [indicating] that lies on the Sabine River partly in Louisiana and partly in Texas that has been examined during the past summer and found to be quite a desirable area. I might say that further along, in connection with our future plans, I would discuss this in a little greater detail.

Mr. JONES. Have you made any estimate as to the amount of land this appropriation of \$2,000,000 would enable you to add each year?

Mr. KNEIPP. I have that further along in my statement. I can give it to you now, but I could probably work it in better later on, if you have no objection.

Mr. JONES. That is all right.

Mr. KNEIPP. Up to date, there has been acquired, under the Weeks law in the White Mountains region, 439,412 acres at a cost of \$2,924,792. In the southern Appalachian region, there has been acquired, and when I say acquired I mean also land which has been approved and covered by option but where the title has not been absolutely perfected yet.

Mr. MC LAUGHLIN of Michigan. And there is money available to buy it?

Mr. KNEIPP. The money has been set aside as an obligation and everything consummated except the acceptance of title by the Attorney General.

Mr. MC LAUGHLIN of Michigan. It has been practically acquired.

Mr. KNEIPP. Practically acquired; yes, sir. Technically, it is not, but to all practical purposes it is acquired. In the southern Appalachians, the purchases amount to 1,608,306 costing \$7,532,017.

Mr. CLARKE. A little over \$6 an acre.

Mr. KNEIPP. Yes, sir; about \$6.

Mr. TINCHER. What kind of land is that you pay \$6 for.

Mr. KNEIPP. The land we pay \$6 for or better than \$6 is land which is heavily timbered. I might say that for the land itself the average price paid to date is \$2.77.

Mr. ASWELL. Is that cut-over land usually?

Mr. KNEIPP. In appraising the land, we divide the appraisal into two parts, one is the basic soil value including the young growth that is nonmerchantable in character and the other part of the appraisal is of the mature timber which is merchantable. We have divided the appraisal in that way, and for the land itself, including the young growth and nonmerchantable timber, the average price paid to date has been \$2.77. That has ranged all the way from as low as 25 or 50 cents an acre for some badly burned land at high elevations up to about \$6 an acre for the very choicest and most productive types of land in the southern Appalachians.

This means that to date under the Weeks law the Government has acquired 2,047,718 acres for which it has paid for the actual title itself \$10,456,000.

I have here a sheet showing the distribution of purchases by States, the acreage purchased in each State, the average price paid, and the total expenditure in that State. I can read it to the committee or I can simply submit it to you.

Mr. TINCHER. It will not be very long, suppose you read it.

Mr. KNEIPP. In Alabama, 79,007 acres; average price, \$4.67; total cost, \$368,620.91.

Mr. ASWELL. Did you buy that of private individuals?

Mr. KNEIPP. Yes, sir.

Summary of land approved to Dec. 31, 1921.

State.	Acreage.	Average price per acre.	Total cost.
Alabama.....	79,007	\$4.67	\$368,620.91
Arkansas.....	54,061	3.64	197,018.13
Georgia.....	154,367	6.71	1,035,430.33
Maine.....	32,320	5.56	179,784.47
New Hampshire.....	413,678	6.61	2,735,040.80
North Carolina.....	348,565	6.24	2,173,800.71
South Carolina.....	18,546	5.47	101,542.49
Tennessee.....	265,896	4.90	1,302,948.60
Virginia.....	473,847	3.67	1,737,224.60
West Virginia.....	207,431	3.02	625,449.39
Total.....	2,047,718	5.11	10,456,860.43

Mr. ASWELL. What did you say was the average price paid for all of it?

Mr. KNEIPP. The average price, including timber and everything else, paid for the land is \$5.08, I think.

PURCHASE OF FOREST LANDS.

MR. CLARKE. Please state again the total acreage that you have already acquired.

MR. KNEIPP. Two million forty-seven thousand seven hundred and eighteen acres.

I have here another sheet showing the distribution by purchase areas; that is, the acreage purchased in each area, the average price, and the amount paid.

MR. ASWELL. Just file that for the record.
(The statement referred to follows:)

Average price per acre (land and timber) to Dec. 31, 1921, of tracts on each purchase unit.

	Acres.	Price.	Amount.
White Mountains.....	439,412.48	\$6.65	\$2,924,792.44
South Appalachians:			
Monongahela.....	166,174.00	2.92	484,491.62
Massanutten.....	59,125.04	2.13	126,083.23
Potomac.....	80,188.62	3.01	241,501.85
Shenandoah.....	203,168.74	3.36	682,922.15
Natural Bridge.....	136,359.83	5.13	698,933.46
Boone.....	52,284.79	2.83	148,009.46
Mount Mitchell.....	77,242.20	8.78	678,209.44
Pisgah.....	94,778.00	4.95	469,575.49
Savannah.....	140,809.00	6.94	977,330.7
Cherokee.....	141,697.73	5.21	738,210.1
Georgia.....	70,234.88	6.40	449,487.8
White Top.....	97,964.00	3.92	384,160.6
Unaka.....	81,460.00	4.77	388,822.0
Arkansas.....	34,914.69	3.93	137,105.4
Ozark.....	18,146.22	2.98	56,668.1
Alabama.....	79,006.00	4.55	359,568.8
Nantahala.....	73,751.78	6.93	510,981.70
Total.....	1,608,305.52	.....	7,532,067.90
Grand total.....	2,047,718.00	.....	10,456,860.3

MR. KNEIPP. In trying to find out how the thing balances up, not as a mean of self-glorification or anything of that kind, but to find what this expenditure has resulted in so far, we have taken the average price which we paid for land since July 1, 1920, or about 20 months, and we have multiplied the acreage acquired in that way. We have taken the average price received for timber of different kinds in the same period, and we have computed the 4,000,000,000 feet of timber in the area on that basis. I think that way of estimating what the property is worth at the present time is fairly reliable, because both the purchases of land and the sales of timber are widely distributed and in varying areas. As a result of that, this property that has been purchased, and which have just described, according to our estimate, is worth \$19,262,000 at the present time.

MR. ASWELL. And you paid how much for it?

MR. KNEIPP. We paid \$10,456,000; or, including cost of purchase and cost of administration and every cost up to date, it amounts to \$13,340,000. That is protection and costs of acquisition, including detailed examinations, surveys, appraisals and everything else. In other words, we feel that the property to-day is worth conservatively practically \$6,000,000 more than it cost the Government. We think it could be liquidated under normal market conditions for practically that price. Part of that value is due to the general advance in value since the work started. More of it is due to the fact we have taken a diversity of private ownerships under different forms of management and brought them together in workable units. Part of it is also due to the fact that the Government's method of selling timber permits the operator to pay higher prices than if he had to give out and buy the land or if he had to deal with a multitude of small owners.

MR. McLAUGHLIN of Michigan, I think this committee and the members of the House will want to know what it cost to acquire this land and what it cost to maintain it. You spoke of some \$10,000,000 actually paid to the owners of land for the title, and then you say the total cost has been some \$13,000,000, including the cost of protection.

MR. KNEIPP. Yes, sir.

Mr. McLAUGHLIN of Michigan. Will you kindly give the figures, if you have them, showing the cost of administration in acquiring the title, and then, later, the amount that has been paid each year and in the aggregate for protection.

Mr. KNEIPP. The total cost of acquiring the title to date has been \$1,818,652, or an average cost of 88 cents an acre.

Mr. McLAUGHLIN of Michigan. That is what percentage of the cost of the land itself?

Mr. KNEIPP. That would be about one-sixth or thereabouts. I might explain that under governmental methods of procedure the cost of land is much greater than it would be in business practice. We have to have a legally safe title, something that probably is never required in business anywhere else—a title that will pass the most exacting scrutiny of the Department of Justice. We have to have a very careful cadastral survey of each tract of land, which is something that no operator would ever think of requiring. For those reasons it has cost the Government a great deal more to buy the land than it would cost a private operator.

Mr. McLAUGHLIN of Michigan. That is all interesting and important as showing the reasons for what may seem to some to be the excessive cost of acquiring the land. I appreciate what you say, that the ordinary purchaser is not nearly so careful about the title as the Government, and there are other items of cost and expense involved in the Government acquiring the land, and for the information of the committee and in order that we may answer questions that may be asked about it, we should know how it happened to cost so much to acquire this land, so that we will then be able to answer any questions that may be asked about it.

Mr. TINCER. I do not think it would be just correct to say that the ordinary individual is not careful about having a legal title. He has to have the title examined while we have the Department of Justice pass on it.

Mr. McLAUGHLIN of Michigan. But a great many men are careless about that and are willing to take the chances.

Mr. JONES. The purchaser usually makes the seller pay the expense of fitting up the title so that it is good.

Mr. ASWELL. Oh, no.

Mr. JONES. I do not know whether that is done in connection with Government purchases or not, but I know that in our section of the country when a man purchases land it is up to the seller to correct such defects as may be found in his title, after the contract to sell has been entered into.

Mr. ASWELL. In my State the buyer does that.

Mr. JONES. Does the buyer pay all the expense of getting up an abstract of title?

Mr. ASWELL. Yes; they do that always in my State.

Mr. JONES. In every section of the country that I know about they usually enter into a contract and the purchaser contracts to furnish a good title, and then he gets up an abstract and submits it to the purchaser's attorney, and the purchaser's attorney makes his objections, and then the seller undertakes to correct those defects. I think that is the practice in nearly all of the States.

Mr. ASWELL. It does not cost you anything to have the Department of Justice pass on it.

Mr. KNEIPP. But it does cost us something, because we keep title attorneys employed.

Mr. McLAUGHLIN of Michigan. That is a practice which varies, and the one who pays the expense of fixing up the title is usually the one who is most anxious to make the sale. One man says, "If you will fix up your title, I will buy," and makes the other fellow pay all the expense. If the seller is very anxious to sell, he will say, "I will fix that up myself." I do not believe there is anything like a uniform rule as to who pays those expenses.

Mr. JONES. You usually have a signed contract before the man goes to that expense.

Mr. McLAUGHLIN of Michigan. You will pardon me, Mr. Jones. You say they usually have a contract. I do not suppose that is true in 1 per cent of the cases.

Mr. TINCER. I think this practice is uniform, that the buyer pays his own attorney for an examination of the title, and in the case of the Government the one who does that is the Department of Justice.

Mr. McLAUGHLIN of Michigan. Do you not believe also that in a large majority of cases the purchases are made without any attorney at all?

Mr. TINCER. No; I would not think that was true in 1 per cent of the cases.

Mr. ASWELL. Oh, yes.

Mr. JONES. That is not true in many sales of importance.

Mr. ASWELL. Sometimes they split the cost 50-50 between the buyer and the seller.

Mr. TINCER. I do not think there is much land changing hands in the United States now unless there is an abstract of title. Twenty-five years ago that may not have been true.

Mr. McLAUGHLIN of Michigan. I have been quite familiar with land titles and I have bought land myself with a defective title. I was so anxious to get it that I would take a chance on fixing it up.

Mr. JONES. Let us have a statement of the items of expense that go to make up this cost of 88 cents an acre.

Mr. KNEIPP. All right, sir. I might say here that the practice we follow is substantially what you describe. The proponent has to give us an abstract of title up to date.

Mr. JONES. That is almost the universal practice in all the States. I know that is true.

Mr. KNEIPP. But we can not always accept a title that is an acceptable commercial title. We have got to go back into the old grants, dating back to the Georges, down through the junior and senior grants, involving questions of right by prescription, right of possession under the State law, and, in fact, we have to do three or four times as much work in order to get a title acceptable to the Attorney General as we would have to do to get a gilt-edged loan from any banker in the South. Seven years' possession in most of the States would give you sufficient title for any business purpose, but it does not for our purposes. This cost of examination is made up, approximately, as follows: The examination and appraisal of the land costs from 12 to 15 cents an acre. This involves a reasonably careful examination of the stand of timber, the young growth, the character of the soil, and all facts relating to the land. The survey work costs from 25 to 30 cents an acre. The average cost, I think, has been computed at about 28 cents for all the land.

Mr. McLAUGHLIN of Michigan. The survey is not simply running the lines, but an examination of the land itself.

Mr. KNEIPP. The survey is a careful fixing of the boundaries of the line on a horizontal basis, and this, again, involves a great deal of difficulty because in the old days these grants were surveyed on a different basis. The surveyor did not break his chain but simply ran distances, and we have to go in there and make a careful horizontal survey so that the old courses and distances are not very useful.

Mr. McLAUGHLIN of Michigan. I understand about that horizontal survey, but is there not also some examination required to be made by you?

Mr. KNEIPP. There is an examination required by the Geological Survey.

Mr. McLAUGHLIN of Michigan. Did you include that as a part of the survey?

Mr. KNEIPP. I have included that practically in the overhead. It is a very small cost, being simply one geologist who goes out and examines a large body of land at one time.

Mr. McLAUGHLIN of Michigan. When you speak of a survey you mean—

Mr. KNEIPP (interposing). I mean a cadastral survey fixing the boundaries of the land. The work of title examination has cost approximately 40 cents an acre. In checking these old titles it became necessary in the work to prepare a complete set of grants dating back to the early Colonial days and bringing it down to date. Every title presents many difficulties, so that it is necessary to have seven attorneys scattered throughout the Eastern States who make a practice of taking these abstracts of title and checking them up. That work has averaged in cost 40 cents an acre for the 2,000,000 acres.

Mr. TINCER. I do not quite understand that yet. Do you have all this work done at the same time?

Mr. KNEIPP. No; they operate in different sections of the country.

Mr. TINCER. For instance, you go out to buy a tract of land and here is a man who wants a bill passed so he can sell the Government this tract of land. When he sells the tract of land to the Government he furnishes, I presume, an abstract of some kind.

Mr. KNEIPP. Yes, sir.

Mr. TINCER. And you have an attorney pass on it?

Mr. KNEIPP. Yes, sir.

Mr. TINCHER. And it costs the Government 40 cents an acre for that examination?

Mr. KNEIPP. Including the preliminary work of checking up and compiling all this grant data and everything of that kind.

Mr. TINCHER. If that practice was indulged in by men in private industry and cost them 40 cents an acre, there would be a lot of rich lawyers around here instead of poor Congressmen. I wish I had 40 cents an acre for all the land I have checked up in Marvin Jones's district.

Mr. KNEIPP. I do not think any of the seven title attorneys we have would plead guilty to being rich lawyers; in fact, they might prove to be almost as badly off as a Congressman.

Mr. CLARKE. That is going some, I will say.

The CHAIRMAN. How many acres did you say you have acquired?

Mr. KNEIPP. Two million forty-seven thousand.

Mr. ASWELL. Do these lawyers work on a salary?

Mr. KNEIPP. Yes, sir.

Mr. McLAUGHLIN of Michigan. Then they are on the pay roll whether they are examining titles or not?

Mr. KNEIPP. Yes, sir; but to date they have been busy examining titles all the time.

Mr. McLAUGHLIN of Michigan. Are they on the pay roll of the Department of Justice or on your pay roll?

Mr. KNEIPP. They are on the Department of Agriculture pay roll, but they work under the solicitor's office. They do not work under the Forest Service.

Mr. McLAUGHLIN of Michigan. What salaries do they get?

Mr. KNEIPP. I could not tell you specifically, but I think it ranges from \$2,080 to \$2,500 or somewhere along there.

Mr. TINCHER. They could not know very much about titles or be much of a lawyer or they would not work for that.

Mr. CLARKE. You are wrong there, Mr. Tincher. In the Department of the Interior I know a man who was one of the honor men at Yale and who led his law class in Nebraska, and he has been in the Interior Department 15 or 16 years now, and is getting, I think, \$2,600.

Mr. ASWELL. Could he make a living in any other way?

Mr. CLARKE. I offered him \$5,000 as a starter 15 years ago to come with me, but he had just been in the Government service long enough so that he was afraid to go out and take a chance.

Mr. KNEIPP. I think it is only fair to these title examiners to say that in many condemnation suits they have been pitted against some of the best lawyers that the large landowners could employ, and they have won their cases.

Mr. KINCHELOE. Seriously, as Mr. Tincher says, if you are getting their undivided time and attention for this work, and if they are doing nothing else, you are very fortunate if you can get a lawyer that knows one kind of conveyance from another who will work for a year for \$2,000.

Mr. KNEIPP. That is probably true, but we have them.

Mr. CLARKE. Oh, some of those men down here in the departments have marvelous minds.

Mr. KINCHELOE. But he says these men are scattered all over the country.

Mr. CLARKE. Just as an instance of that, this very man I have referred to is passing on titles to lands in Wyoming that are literally worth millions of dollars, and one of the greatest lawyers in the city of Washington has said that there is no man in the country that has the knowledge of these matters that this man has. It has been his life work.

Mr. KINCHELOE. My idea is that if he comes here to Washington and gets on the Government pay roll, the longer he is here the less initiative he has, and I think that applies to Members of Congress oftentimes, too, or to anybody else working for the Government. They become afraid to turn loose. I do not mean that as any reflection on their ability, but I am talking about lawyers who are scattered throughout the country and who are out scrapping for business, and if you can employ one of them for \$2,500 who is a good land-title lawyer you are very fortunate.

Mr. TINCHER. Their work has to be finally checked and approved by the Department of Justice.

Mr. KNEIPP. Their work is reviewed by the Department of Justice, but by the time they put it up to the Department of Justice it is usually acceptable.

Mr. McLAUGHLIN of Michigan. Does it involve any cost in the Department of Justice to do that?

Mr. KNEIPP. None except the regular organization costs. The costs of this work are defrayed from the appropriations.

Mr. McLAUGHLIN of Michigan. Is there any charge upon this fund on account of the work done by the attorneys in the Department of Justice?

Mr. KNEIPP. No, sir; the only legal charge on this fund is the charge for these title attorneys, who, of course, must work in the field because it necessitates going to many county seats and checking over records, and following up all the legal features of title work to get an absolutely safe title, something, as I said before, which would not be required by anybody except the Government.

Mr. TINCHER. I am afraid that if the statement was made on the floor of the House that that is something that would not be required by the ordinary individual in business to-day, we would be met with quite a discussion. I think the tendency of the times for the last 25 years has been that the man who has money enough and business ability enough to become the owner of real estate has sense enough to hire a lawyer and know that he is getting a real title to that real estate, and I am afraid that a comparison of 40 cents an acre for passing on the title in order to know that he is getting the right kind of title would appear to be ridiculous. I think you would be confronted with the suggestion that if you had in mind a tract of land, for instance, in some county in Virginia, that you ought to go to the best lawyer in that county seat and have him pass on your title, and that you could save at least 35 cents an acre.

Mr. KNEIPP. Here is the situation, Mr. Tincher; I would come to you and say I have 10,000 acres of forest land here that I want to sell, and you would say, "What title have you got," and I would say, "I have been more than 10 years in undisputed possession," and you would say that 7 years is enough in this State and that the title is all right, but when you come to the Government that statement is not sufficient.

Mr. TINCHER. I would not say that. I would say that the seven-year rule of prescription title is like the rule that no parol testimony may be introduced to vary the terms of a written contract. It is subject to a good many exceptions, and any lawyer who has ever had any experience in such matters knows that a title by prescription is dangerous, and almost any individual in buying land knows that there are so many exceptions to the rule of seven years of undisputed possession that that is a dangerous title to have.

Mr. McLAUGHLIN of Michigan. I would buy a prescription just as quick as any other title.

Mr. TINCHER. Yes; if it was not subject to any of the exceptions. There may be minors who have rights in the premises, and seven years is too short a time for any State to have as giving a title by prescription anyway. Most of the States require a longer time than that.

Mr. KINCHELOE. And the statute of limitation does not run against certain parties.

Mr. TINCHER. And the Government is one of them.

Mr. KNEIPP. The act of 1911 requires that the title shall be acceptable to the Attorney General, and the Attorney General requires certain things to make the title acceptable. The proponent of the land can not furnish those things, or, in fact, he would not go to the trouble to furnish them, and there is the other side of the proposition that this is a check on the guaranty of title. This means that in order that the title may be acceptable to the Attorney General the representative of the Government must check through these various grants. That checking is what these title attorneys do, and that is what costs the money.

The appraisal cost, with regard to that 88 cents, is divided approximately as follows: Examination and appraisal, 12 to 15 cents an acre; survey work, 25 to 30 cents; title examination approximately, 40 cents; and overhead, approximately 10 cents.

Mr. TINCHER. Is there any land in Texas marked on the map there for purchase?

Mr. KNEIPP. There is an area in Texas proposed on the Sabine River.

Mr. TINCHER. Let me see if I understand this thing. Perhaps we can get the Budget Commission to reform this a little. If you buy a tract of land down in Texas, as I understand, and Marvin Jones was not busy up here, the Government would get him on the pay roll to check that title, and after he had

it all checked, at an expense of 40 cents an acre, you would send that title here to the Attorney General. I can not see the object of the double examination.

Mr. KNEIPP. It probably would not be necessary in Texas, because the chain of title running back to the State is very short, but in this eastern Appalachian section you have chains of title running back to King George II, back to the old colonial days, and that is what costs money.

Mr. JONES. You had better buy a little land in Texas then.

Mr. KNEIPP. It might be desirable to do that for many reasons other than the title.

Mr. JONES. Can you tell us what that 10 cents overhead includes?

Mr. KNEIPP. That is the cost of the men employed here in Washington in checking up the work. It also involves the cost incurred by the Geological Survey in making a general examination—

Mr. JONES (interposing). Do the men here in Washington check the title again?

Mr. KNEIPP. No; these are not the men who check the title, but the men who handle the various features of the work.

Mr. JONES. How many men are employed in Washington in this service?

Mr. KNEIPP. The work is done under a district forester, who has several men engaged in it. I think there are three engaged here. A certain part of the supervision of the forest is paid out of it. There are no men engaged in Washington. There are men who are in certain units in the field, but whose work is general in character.

Mr. ASWELL. Can you give us the total—what the expense has been in total for upkeep?

Mr. KNEIPP. The total expenditure up to date in all sources has been \$1,064,747. That is cost of administration, men in the field, inspection, etc.

Mr. ASWELL. A million dollars in less than two years?

Mr. KNEIPP. No; that is since 1911.

Mr. ASWELL. I intended to make my inquiry so as to ascertain how much it would cost per annum.

Mr. KNEIPP. The total expenditure—I can not give you that in that way; I have not worked it out.

Mr. CLARKE. It would be easily ascertainable, taking the number of acres and the total cost, and the length of time is 11 years.

Mr. KNEIPP. But we have not owned it all during that time. Some of it was acquired earlier, and some at a later period; it has been owned varying lengths of time. But the total cost has been about 50 cents per acre.

Mr. ASWELL. For the whole thing?

Mr. KNEIPP. No; the running cost. In some cases the lands have been administered for 10 years, and in some other cases for 5 years or 6 years or 3 years.

Mr. ASWELL. Can you estimate how much it costs per annum per acre?

Mr. KNEIPP. It runs from 2 to 5 cents per acre. Of course, the cost depends upon the intensity of the administration, the fire hazards, and the degree with which organization and development was carried on and improvements made; that is, such as road building, and so on.

Mr. ASWELL. You do not pay for the road construction, do you?

Mr. KNEIPP. No; only for the minor roads. That should be more properly said for the trail making.

Mr. McLAUGHLIN of Michigan. Is that fund charged with the costs or expenses of the Geological Survey?

Mr. KNEIPP. Merely for an examination of the lands, to see whether the lands and properties are such as to come properly within the purview of the law. Those expenses are not very large. Under the law, before any lands can be purchased by the National Forest Reservation Commission the lands must be examined by the Geological Survey and a report made to the Secretary of Agriculture showing whether the control of the lands in question will promote or protect the navigation of streams on whose watershed they lie.

Mr. McLAUGHLIN of Michigan. Which necessitates a visit to the land, I suppose?

Mr. KNEIPP. It necessitates a trip of a geologist to the land, to go out there and see whether it is such land as comes within the purview of the statute.

Mr. CLARKE. That is the first step?

Mr. KNEIPP. Yes; it can not be purchased until a report is made by the Geological Survey to the Secretary and it is confirmed by the Secretary, according to the provisions of the act.

Mr. McLAUGHLIN of Michigan. Does an attorney from the Department of Justice ever have to go out and visit the locality and get testimony as to the title, etc.?

Mr. KNEIPP. No, sir; the title attorneys do all of that.

Mr. McLAUGHLIN of Michigan. So there is no expenditure connected with this in the Department of Justice that is charged to this fund?

Mr. KNEIPP. No, sir.

Mr. McLAUGHLIN of Michigan. But there is some charge against this fund for work on the part of the Geological Survey?

Mr. KNEIPP. Yes, sir.

Mr. McLAUGHLIN of Michigan. And that is work of the character such as you have described?

Mr. KNEIPP. Yes, sir.

Mr. JONES. I understood you to say there were some attorneys of the Department of Justice who were on the agricultural roll?

Mr. KNEIPP. These title attorneys have a designation from the Attorney General which qualifies them to act in condemnation suits, and things like that, and in title investigations, as representatives of the Department of Justice. But none of the regular staff of the Attorney General does this work, except the United States district attorney, and he acts in cases of condemnation.

Mr. KINCHELOE. Do you ever have to resort to condemnation? I understood by a question that I put to somebody here that it was never necessary for you to exercise the right of eminent domain.

Mr. KNEIPP. We have never resorted to arbitrary condemnation, I think, in this class of purchases, but in many cases there are obscure interests involved or there are clouds on the title, or something of that sort, so that these suits are instituted to clear the title, or something of that kind.

Mr. KINCHELOE. Are these 2,000,000 acres of land policed in any way, so as to keep private individuals from cutting timber off of them?

Mr. KNEIPP. Yes; all of them are.

Mr. KINCHELOE. All of them are?

Mr. KNEIPP. Yes; all of this land is in national forests, and each area has a supervisor, and the area is divided into districts, and the district has a ranger, and when any timber is sold off of the track he marks the timber that is to be cut and scales it after it is cut, and piles up the brush and disposes of the debris, and protects against fire, and does such work as is required in forestry.

Mr. TINCHEE. Let me get your idea about this: This resolution authorizes an appropriation of \$2,000,000 this year and a million dollars each year—

Mr. McLAUGHLIN of Michigan (interposing). No; such sum as may be necessary to appropriate, is the provision.

Mr. TINCHEE. It authorizes this \$2,000,000, and then leaves it open for future consideration.

Mr. McLAUGHLIN of Michigan. It puts life into the Weeks Act, and authorizes Congress to appropriate money if it should see fit to do so.

Mr. TINCHEE. So that the Appropriation Committee would not have to ask us next year for authorization to appropriate all they want to?

Mr. McLAUGHLIN of Michigan. No.

Mr. KNEIPP. The present situation with regard to the present areas is this—

The CHAIRMAN (interposing). Do I understand you to say the appropriation bill carries \$50,000?

Mr. KNEIPP. The Budget carries \$50,000.

The CHAIRMAN. Is that for purchases of land?

Mr. KNEIPP. No, sir; that is for the men who are engaged in completing the uncompleted obligations at the time.

The CHAIRMAN. I have been looking this over and I do not find any \$50,000 item here. I do find an item of \$27,000, to enable the Secretary of Agriculture to carry out the provisions of the Weeks Act.

Mr. KNEIPP. That is merely an authorization for the expenditures of moneys here in Washington. That is not the additional appropriation.

The CHAIRMAN. Where is the rest?

Mr. KNEIPP. There is another item in there for the continued prosecution of work under the act of March 1, 1911.

The CHAIRMAN. For the purchase of land?

Mr. KNEIPP. Well, that would not provide much for the purchase of land. Much of it is for the completion of uncompleted contracts.

Mr. TINCHEE. This resolution authorizes an appropriation of \$2,000,000 for this fiscal year?

Mr. KNEIPP. Yes, sir.

Mr. TINCHER. I misunderstood you, I guess. I understood you were not going to ask \$2,000,000 of the Appropriations Committee.

Mr. KNEIPP. Yes; I figured out two plans—one on the basis that this bill would go through in toto, making a total of \$40,000,000.

Mr. ASWELL. The bill we were considering yesterday?

Mr. KNEIPP. This bill—H. R. 9667.

Mr. ASWELL. This is \$2,000,000.

Mr. KNEIPP. Yes; \$2,000,000. That would require a vastly different plan. If this bill did not go through, and if the budget plan was put through, there was a different plan. That is where I may have confused the committee. We were working on the basis of these different plans, and had worked them out; one was on the basis of the \$50,000.

Mr. KINCHELOE. How many acres is contemplated to be purchased each year if this bill were passed as it is? Out of the \$2,000,000 appropriation, how much do you figure, in your estimation, that you would set apart for the purchase of additional land?

Mr. KNEIPP. The land at the present time, I think, could be purchased for approximately—on the basis of recent prices—for probably \$5 an acre, including the cost of purchase.

Mr. KINCHELOE. I mean, how many acres would you contemplate you would buy each year out of this appropriation?

Mr. KNEIPP. As many acres as we could buy.

Mr. KINCHELOE. You mean you would expend the whole \$2,000,000 for that purpose?

Mr. KNEIPP. Yes, sir.

Mr. KINCHELOE. I thought part of it was for administration work.

Mr. KNEIPP. No, sir.

Mr. KINCHELOE. It would all go for the purchase of additional lands?

Mr. KNEIPP. Yes; a part of it is for title examinations and costs of purchase.

Mr. KINCHELOE. But none of this fund would go to protect or reforest any land that has already been purchased under the Weeks Act?

Mr. KNEIPP. No, sir; that is already provided for in the regular appropriation.

Mr. McLAUGHLIN of Michigan. The land to be purchased will become a national forest, as well as the other land already purchased.

Mr. KINCHELOE. Yes; but I didn't know it would all go to buy additional land.

Mr. KNEIPP. We would use all of the \$2,000,000 to buy such land as we could get if it was found to be available.

Mr. McLAUGHLIN of Michigan. You notice it is for "such sums as the Congress shall appropriate to enable the National Forest Reservation Commission to carry out the purposes of the act of March 1, 1911."

Mr. KINCHELOE. Yes; that is what I had in mind in asking that question.

Mr. McLAUGHLIN of Michigan. The act of March 1, 1911, provides a system of fire protection—private, State, and National.

Mr. KNEIPP. It provides for a system of fire protection. This one section, Mr. McLaughlin, section 3 of the act of March 1, 1911, on page 14—the second paragraph on page 14—is the one, I think, that was in contemplation when this bill was introduced. That provides:

"That there is hereby appropriated for the fiscal year ended June 30, 1910, the sum of \$1,000,000, and for each fiscal year thereafter a sum not to exceed \$2,000,000, for use in the examination, survey, and acquirement of lands located on the headwaters of navigable streams or those which are being or which may be developed for navigable purposes."

Mr. McLAUGHLIN of Michigan. But if we are going to use this money only for the purchase of land, would it not be necessary to say so in this bill? You might say for the purpose of keeping alive section 3, which relates only to the purchase of land. But if you keep the whole act alive and appropriate \$2,000,000 for the purpose of carrying out that act, any and all provisions of the act can be carried out and money can be used for any and all provisions and for all purposes, and one of the purposes is fire protection in cooperation with private individuals or the States.

Mr. KNEIPP. I believe the Budget makes provision for that fire-protection work, Mr. McLaughlin.

Mr. McLAUGHLIN of Mich'gan. I don't think it is material what the Budget provides for. Here we are giving authority; here we are providing money to be used in a general way, whereas we propose to use it in a particular way.

Mr. KNEIPP. Perhaps I may clear that up, Mr. McLaughlin. This is to enable the National Forest Reservation Commission to carry out the purposes of the act. The National Forest Reservation Commission has authority only in the matter of the purchase of land, and of course it was intended to confine them to that. If that wording does not properly confine it and restrict it, possibly it would be well to change the wording of this bill.

Mr. McLAUGHLIN of Michigan. I doubt very much if that is enough.

Mr. KNEIPP. If that would not be enough, then it would be well to specify the particular section of the act.

Mr. McLAUGHLIN of Michigan. In many cases it is necessary for us to give the Secretary of Agriculture large measure of discretion. That is necessary for the purposes of carrying out the provisions of acts which we pass from time to time. We do that willingly, and we give him that discretion cheerfully when it is necessary. But there are some things that Congress does not want to do, and I personally do not believe in writing a law in such a way as to permit the doing of a thing which it is not intended to do under the act.

Mr. KNEIPP. Perhaps to make it entirely clear there should be a change in the wording of this act.

Mr. KINCHELOE. As I understand it, under the Weeks Act the only power Congress would have to appropriate money would be for the purpose of acquiring land within the watersheds of navigable streams?

Mr. KNEIPP. Yes, sir.

Mr. KINCHELOE. Now, you have no doubt that is what the Weeks Act provides?

Mr. KNEIPP. No, sir.

Mr. KINCHELOE. Now, if you appropriate here \$2,000,000 for the fiscal year up to July 1, 1923, to enable the National Forest Reservation Commission to carry out the provisions of the Weeks Act, then the only power they would have would be to acquire lands such as are described in the Weeks Act, which are located on the watersheds of navigable streams.

Mr. KNEIPP. That is all.

Mr. KINCHELOE. So you do not propose to buy any land with this money here asked for, except for the purpose of the protection of the watersheds of navigable streams?

Mr. KNEIPP. That is all at the present time. We could not do anything else unless Congress passed further legislation.

Mr. KINCHELOE. That is, if they had power under the Constitution to do it?

Mr. KNEIPP. Yes; if they had the power to do it, under the Constitution. Now, at the present time, as of January 1 of this year, there are in the purchase units a gross acreage of 8,190,661 acres of land, of which 922,082 acres are public domain. The lands originally in private ownership, therefore, amounted to 7,268,579 acres. Out of that there have been approved for purchase 2,047,717 acres, as I have indicated.

A study of these purchase units shows at the present time that there are lands under management of private owners on terms comparable to those of the Forest Service, to an extent of 251,946 acres. One notable example of this is the Virginia Paper & Pulp Co., which has an acreage of 134,000 acres, in the Monongahela Forest which they are protecting and holding for the second crop of timber.

Mr. CLARKE. Is there any provision in there as to the State where this land is located letting up on the taxes?

Mr. KNEIPP. No, sir.

Mr. ASWELL. Not if they buy it.

Mr. KNEIPP. No; I don't think any arrangement has been made there. The company has figured out that it is a good investment and a good policy to hold it, although at rather heavy expense for taxes, etc., for a future timber supply.

Mr. ASWELL. If the laws do not give them any privileges in the way of taxes?

Mr. KNEIPP. Even though the expenses in taxation are rather heavy.

Mr. ASWELL. There are no laws of the State giving them any such benefits?

Mr. KNEIPP. Not that I am aware of.

Mr. KINCHELOE. It has been testified by two or three witnesses that a good place to grow hard timber would be in the mountains of Virginia, West Virginia, eastern Kentucky, Tennessee, and the mountains of New England.

Mr. KNEIPP. I think that is true.

Mr. KINCHELOE. There are thousands and thousands of acres of land there, however, that are not in the watershed of any navigable stream.

Mr. KNEIPP. That is true.

Mr. KINCHELOE. And yet notwithstanding that, under the Weeks Act and the provision there for reforestation and creating the National Forest Reservation Commission, you can not buy it there, because it is not located on the watershed of navigable streams.

Mr. KNEIPP. Yes; that is a restriction against what would be an ideal reforestation plan.

Mr. KINCHELOE. The large rivers of Kentucky are the Cumberland and Tennessee Rivers in western Kentucky, and they are navigable, but in eastern Kentucky there are no rivers and no watersheds to navigable streams at all.

Mr. JACOWAY. What do you consider and describe as a navigable stream?

Mr. KINCHELOE. Well, I don't know whether the courts would construe navigability to be same as an act of Congress or not.

Mr. JACOWAY. I think the Supreme Court has decided that logging is a species of navigation; that streams are navigable if they float logs down the stream.

Mr. KINCHELOE. I do not know about that.

Mr. JACOWAY. And where you built a dam which is not, in fact, navigable, like a dam for water power, they call that slack-water navigation, and I believe that would fall within the category of navigability. So, if I am not mistaken, you can hardly name any stream in the United States but would fall within the category of navigable streams.

Mr. KINCHELOE. But the point I am making is that these lands are not near the headwaters of any navigable stream, but are far removed from the streams, but are good lands for the purpose of raising hardwood timbers, and yet under the provisions of the Weeks Act they must remain idle.

Mr. JACOWAY. But those lands form a part of the watersheds of navigable streams.

Mr. KINCHELOE. That would be spreading it out right sharply.

Mr. JACOWAY. They have spread it out sharply.

Mr. KINCHELOE. That is what I am trying to find out about.

The CHAIRMAN. I would like to find out, Mr. Kneipp, about how much more time you will require.

Mr. KNEIPP. I can finish in a very short time. Mr. Chairman.

The CHAIRMAN. Mr. Sutherland, Delegate from Alaska, desires to make a request for time for hearings on certain bills.

Mr. SUTHERLAND. I want to ask, Mr. Chairman, that you fix a time, if possible, when these bills may be heard.

The CHAIRMAN. Kindly state what the bills provide, briefly, and then the committee will take the matter up later on.

Mr. SUTHERLAND. The one bill provides for an increase in the percentage of national-forest receipts to be paid to the Territory of Alaska from 25 per cent to 50 per cent. It provides that the percentage to be expended for the benefit of the public schools and roads now be 50 per cent of all moneys received from the national forests in Alaska, instead of 25 per cent, as at present, to be paid to the Territory for expenditure by the Territory legislature. That is H. R. 5950.

The other bill is respecting sales of national forest timber. That is H. R. 5953.

The CHAIRMAN. If you will leave it here for consideration, we will take it up later.

Mr. KINCHELOE. I want to bring up the question of a policy for future hearings.

The CHAIRMAN. I do not think it would be fair to take up the time in discussing these questions at this time, with these gentlemen all here.

Mr. KINCHELOE. I would like to take it up when there is a full meeting of the committee.

The CHAIRMAN. Let us take it up at some other time.

Mr. KINCHELOE. The only thing about it is that I do not know we will have as many members present at a future time. The point I am making is that after this hearing is closed, I am against conducting hearings in the afternoon when Congress is in session. I do not know how you gentlemen here are situated with reference to the matter, but I have mail on my desk now that I

have not been able to look at for several days, on account of being steadily in attendance upon these hearings. And I assume that every man here is as busy as I am. It seems to me that the committee should establish a policy of not holding hearings in the afternoons, and if the committee does establish a policy like that, then these gentlemen who have charge of these bills could so inform their witnesses so that they would not all pile up here in one day.

I am very much interested in an item in the appropriation bill that is now pending. And with Congress in session, and with our mail constantly coming in, and as you gentlemen know it often requires a visit to some of the departments before we can answer the mail, and if we are sitting here as we are now, it takes all of our time.

The Interstate and Foreign Commerce Committee does not have hearings in the afternoons. And so far as I know, no other of the large committees do.

The CHAIRMAN. This committee has several times as much work to do as some of the other committees.

Mr. KINCHELOE. We sit here day after day, day in and day out, just to accommodate these witnesses, when they can come here just as well at other times, if they know that only so many can be heard each day.

The CHAIRMAN. I have not had time to even read my mail, much less to answer it. But let us discuss that matter at another time.

Mr. KINCHELOE. I am willing to do that, if there are enough members here at that time to vote on the question. I want to make a motion at that time with reference to future hearings.

The CHAIRMAN. We will take that up later. You may proceed, Mr. Kneipp.

Mr. KNEIPP. The situation, Mr. Chairman, with regard to the present land remaining available for purchase, as shown on this map—there remains for purchase, in order to carry out the original plan, approximately 3,500,000 acres. At the present time, while we have acquired a large acreage, it is not complete, as will be illustrated by some of these forests here [illustrating on map]. It has been necessary to buy the land as it could be bought. It could not all be bought in a body, but it had to be bought here and there, as operators for one reason or another got ready to sell the land. The result is that the Government lands are interspersed with other tracts, as you will see by the map. The yellow is the lands that is being offered now, and is being examined, and the white is the land that is still in private ownership and is not being offered.

Mr. KINCHELOE. What part of the country is that—the whole country?

Mr. KNEIPP. No; this is in New Hampshire and Maine. And this [illustrating on map] is in Georgia, in the Savannah forest—and is another example of the way in which the Government lands are situated. The green is the land that has been acquired; the yellow is the land that is being offered and being examined; and the white is the land that is still in private ownership and is not being offered. There is a regular patchwork of lines, so that as these forests extend to-day, while they are valuable and productive, they are not in the best situation for efficient administration.

Mr. JACOWAY. On account of a lack of consolidation?

Mr. KNEIPP. On account of a lack of consolidation. The control of fire hazards on the private lands is not good, and it is hard to operate the water sheds as logging units.

Mr. JACOWAY. And the people who own land within the confines of the forest preserves dislike to submit to the regulations?

Mr. KNEIPP. It isn't that. There are no regulations apply to them and they do not protect their land.

Mr. JACOWAY. They do not form a part of the unit, and do not cooperate with the policy?

Mr. KNEIPP. No, sir; nor do they harmonize their land management with that of the Government, so that timber could be logged. So, for that reason the further purchase of land is necessary before we can attain the completeness that we ought to attain.

That brings me up to a consideration of our future plans. On the basis of present prices, which we think can be shaded somewhat, the addition of this 3,500,000 acres would cost in the neighborhood of \$23,000,000.

The CHAIRMAN. Do you have options on that land?

Mr. KNEIPP. No, sir; at present there are offered to us about 870,000 acres.

Mr. KINCHELOE. Where is that; all over the United States?

Mr. KNEIPP. In these areas.

The CHAIRMAN. I understand you announce in advance what you propose to buy?

Mr. KNEIPP. Not specifically.

The CHAIRMAN. Do the owners then put up the prices on you?

Mr. KNEIPP. We do not announce specifically what we want to buy. We state the areas.

The CHAIRMAN. You have indicated here what tract you purpose to buy. Are the owners likely to put up the price? Has the tendency been to hold you up on the prices?

Mr. KNEIPP. It has during the period when economic conditions were thriving. Those were the times when many men could afford to hold these nonliquid assets and wait for conditions to develop when some one would come along to buy them.

Mr. JACOWAY. In Arkansas the lands such as you have described are about three or four dollars per acre.

Mr. KNEIPP. Yes; about three or four dollars for the land and timber.

Mr. JACOWAY. The estimate you put up here is about \$7.50 an acre?

Mr. KNEIPP. No; it isn't that much. I estimate 3,500,000 acres, at about \$23,000,000, would be at an average price of about \$6 an acre.

The CHAIRMAN. How does that compare with the prewar prices?

Mr. KNEIPP. That is an average. At the last meeting of the National Forest Reservation Commission the average cost was \$3.33 per acre.

The CHAIRMAN. You say that can be bought for what?

Mr. KNEIPP. For an average of about \$6 an acre. We do not really know.

The CHAIRMAN. That is an advance?

Mr. KNEIPP. Well, 2,470,000 acres cost an average of \$5.08, exclusive of the cost of purchase. But the last purchase—

The CHAIRMAN (interposing). Is that the full purchase price?

Mr. KNEIPP. No; that is exclusive of the cost of purchase—\$5.08, and then add to that 88 cents more to cover the entire cost.

The CHAIRMAN. That is the average cost before the war prices?

Mr. KNEIPP. Yes, sir.

The CHAIRMAN. That is about what you estimate it can be bought for now?

Mr. KNEIPP. That is about what we estimate it can be bought for now, although these lands remaining are, in many instances, the choicer lands which the owners have held with the expectation of using them. In other words, our plan, so far as it has been developed, contemplates the completion of some of the existing units by the acquisition of three and one-half million acres more of land at an upset figure of approximately \$23,000,000. In addition to that, if the amount of money appropriated by Congress was as great as this measure contemplates, or as the other measure under discussion contemplates, there would be brought up for consideration additional areas in Vermont, Kentucky, Missouri, Virginia, and West Virginia, Oklahoma, Texas, Louisiana, and Mississippi, and Alabama, to the extent of about 3,000,000 acres more, which we figure would represent a maximum cost of \$15,000,000. Then, going further than that, dependent upon the consent of the States and the interpretation of the act and the limitations imposed in the act, there are projected tentatively areas in Minnesota to the extent of about a million acres; in Wisconsin to the extent of 300,000 acres; and in Michigan to the extent of 400,000 acres. The total of all these purchases projected and planned would be approximately \$40,000,000.

Mr. CLARKE. And as to the last three, what would that be?

Mr. KNEIPP. For the last three would be approximately \$4,000,000.

The CHAIRMAN. You say there are about 1,000,000 acres in Minnesota?

Mr. KNEIPP. Yes, sir.

The CHAIRMAN. And in Wisconsin how many acres?

Mr. KNEIPP. Three hundred thousand acres.

The CHAIRMAN. And in Michigan how many acres?

Mr. KNEIPP. Four hundred thousand acres. And then in Brown County, Ind., is an area which would probably come clearly within the Weeks law where a forest could be established to good advantage, where lands could be acquired on reasonable terms and could be very economically and fairly administered.

Mr. KINCHELOE. Would these tracts be contiguous? For instance, would the 400,000 acres be in one body; would it be together?

Mr. KNEIPP. Practically so. Here is the area in Minnesota [indicating on map]. These areas are spots with some private lands in here [indicating].

Here are the areas in Wisconsin [indicating] and these are the two in Michigan [indicating].

Mr. CLARKE. I can not understand about these areas here in Michigan.

Mr. McLAUGHLIN of Michigan. Where are they?

Mr. KNEIPP. Right here [indicating on map].

Mr. CLARKE. The watershed through here—

Mr. KNEIPP (interposing). These extensions here would depend upon the limitations under which we operate, of course.

Mr. CLARKE. What watersheds do they protect; what navigable streams?

Mr. SHERMAN. In connection with this matter, it is not believed that the Minnesota areas or the Wisconsin area or the Michigan area could be consummated under the terms of the Weeks law as it now reads; it would have to be extended, as proposed in several bills, before the additional lands could be acquired.

Mr. McLAUGHLIN of Michigan. On account of the navigability?

Mr. SHERMAN. Yes, sir.

Mr. CLARKE. What about the inhibition of the ruling of the Supreme Court, with reference to that?

Mr. SHERMAN. That is believed not to be an obstacle.

Mr. THOMPSON. Is that in the upper peninsula of Michigan?

Mr. KNEIPP. One is in the upper peninsula and one in the lower; right here [indicating] is one, and one in the lower peninsula.

Mr. THOMPSON. Are these pine lands?

Mr. KNEIPP. Yes; these are already in forests.

Mr. THOMPSON. Are these timbered woods in here [indicating on map]?

Mr. KNEIPP. Not all of them.

Mr. THOMPSON. They do not protect any navigable stream there?

Mr. KNEIPP. No, sir; that would involve a change in the present law.

Mr. McLAUGHLIN of Michigan. The department and Congress have been confronted with this constitutional question, and it has been up so long that it would strike me that the attorneys of the department might have considered it. Whether it is their duty to do it or not—I am not indicating even my idea what their duty is—but it occurs to me they might have considered it.

Mr. KNEIPP. I think it has gone much further than that, Mr. McLaughlin. I think many of the most eminent constitutional authorities of the United States, among whom are some Senators and men prominent in public life, have carefully gone over this constitutional question, and they have violently disagreed as to whether it is constitutional or not; some say there is no constitutional limitation, and others say there is.

Mr. McLAUGHLIN of Michigan. You remember when the Weeks law was passed, the Committee on the Judiciary was asked to investigate this constitutional question, and they made an extensive investigation and an elaborate report.

Mr. KNEIPP. Yes.

Mr. McLAUGHLIN of Michigan. Anyone who has been familiar with the personnel of Congress during recent years would say that that committee on judiciary was a strong committee.

Mr. KNEIPP. Yes.

Mr. McLAUGHLIN of Michigan. Some very able lawyers, and very fine men on the committee. That report and that opinion of the Judiciary Committee had weight with the Congress?

Mr. KNEIPP. Yes, sir.

Mr. McLAUGHLIN of Michigan. But I think the committee would act on the opinion of the Department of Justice, and it seems to me that the Department of Justice ought to get busy on that question and give Congress an opinion, for this reason: If we are going to extend this law as proposed, making it the duty or privilege of the department to buy land otherwise than on a navigable stream, we must know whether or not Congress has a right to authorize those purchases.

Mr. KNEIPP. Yes.

Mr. McLAUGHLIN of Michigan. And another thing—without reflecting in any way on those who have made these purchases, it crops out that some of them are pretty near the line. It looks as if purchases for other purposes than the protection of navigable streams have been made. I do not know whether those purchases can ever be objected to, the Department checked up, and the Government made to give back those lands—surrender them in some way, but troublesome questions are arising all the time, and it seems to me it ought to

be settled, and it seems to me that the attorneys connected with the Department of Agriculture which has to administer the law—the department with which the officials are connected who are coming here and urging us to enact or change this law so as to make purchases outside of the navigability proposition—they ought to have been busy to find out whether they are making recommendations that are outside of the Constitution or not.

Mr. CLARKE. I do not think anybody could raise the question as to the Government as to the title to this land.

Mr. McLAUGHLIN of Michigan. I do not know that they could, but if the Government has acquired land that is clearly outside of its authority to acquire—

Mr. CLARKE (interposing). The doctrine of ultra vires applies.

Mr. ASWELL. Would not a request from this committee bring forth an opinion from the Department of Justice?

Mr. McLAUGHLIN. I think so.

Mr. ASWELL. Why not request it?

Mr. JACOWAY. Would you not come back to this question, whether the man who gave the opinion was a strict constructionist of the Constitution, or a liberal?

Mr. McLAUGHLIN of Michigan. I think the committee and Congress would be guided by the opinion of the Department of Justice.

Mr. JACOWAY. Yes. And I think if it is constitutional, it should be tested out before the committee, and if not we should quit. I think the Department of Justice could point out the way. But to have these men come here before the committee and suggest this, and that, and the other thing to the committee, without knowing whether it could be done under the Constitution, or not, does not help the committee. I think the Department of Justice itself ought to point the way, and I think this question ought to be settled, if possible.

Mr. ASWELL. Why not request it by resolution?

Mr. JACOWAY. I think the request would be as effective.

Mr. KNEIPP. As to lands purchased, the question raised by Mr. McLaughlin, I do not think there can be any doubt. There have been no purchases made except in an area which was previously examined by the Geological Survey, and where it was clearly stated to be within the purview of the act. Now, there could not possibly be any collusion between the Forest Service and the officials of the Geological Survey. No land has been purchased to date, as I say, which has not been examined by the Geological Survey, and stated to be a proper purchase under the Weeks Act.

Mr. McLAUGHLIN of Michigan. I am glad to hear you say that. I got the idea they have been stretching it a little.

Mr. KNEIPP. No, sir; I don't think so. They have been conservative, and have conscientiously studied each area and have told the National Forest Reservation Commission the truth about it, and have put all the data with reference to the inspection itself before the commission, composed of the Secretaries of War, Agriculture, and Interior, and two Representatives and two Senators. And if Mr. Hawley were here, who has followed the work since its inception, and who maintains a personal record of it, I think he could tell you of the work that has been done, and that they are not stretching the act.

Mr. CLARKE. Mr. Hawley of Oregon?

Mr. KNEIPP. Yes, sir.

Mr. McLAUGHLIN of Michigan. Mr. Hawley and Mr. Lee are members of the commission from the House.

Mr. KNEIPP. Yes; Mr. Hawley and Mr. Lee. Mr. Hawley maintains a personal record of the work of the commission, and I think if he were here he would tell you that the commission is not stretching this law.

Mr. McLAUGHLIN of Michigan. They are two good men; you could find no better. Who are on the commission from the Senate?

Mr. KNEIPP. Senator Keyes and Senator Shields.

Mr. McLAUGHLIN of Michigan. They are both very good men.

Mr. KNEIPP. Harking back to the question of these lands, and their location and area, I have here a table showing these lands as classified, and if it would be of interest to the committee, it could be put in the record.

The CHAIRMAN. Without objection, it may go into the record.

(The table referred to is as follows:)

Classification of lands in purchase units Jan. 1, 1922.

Name of unit.	Total area Jan. 1, 1922.	Approved area.	Land under management.	Farm land.	Remaining land available for purchase.
Alabama.....	196,520	97,046	.....	19,980	79,514
Allegheny.....	500,000	.....	.....	10,000	490,000
Arkansas.....	958,290	660,393	.....	90,000	207,897
Boone.....	231,648	52,285	22,840	31,683	124,240
Cherokee.....	326,173	141,698	.....	25,157	159,318
Georgia.....	337,272	70,235	55,685	8,605	265,737
Massanuttan.....	152,946	59,125	.....	48,571	46,250
Monongahela.....	777,987	166,174	15,600	135,000	461,213
Nantahala.....	497,011	73,752	.....	145,665	277,594
Natural Bridge.....	248,056	136,360	.....	17,759	93,936
Ozark.....	511,616	297,709	.....	176,456	37,451
Pisgah.....	304,350	88,100	7,495	23,613	185,052
Potomac.....	146,002	80,189	.....	40,202	25,611
Mount Mitchell.....	233,813	77,242	27,540	60,752	68,279
Unaka.....	543,358	81,460	.....	169,000	292,898
White Top.....	274,253	97,964	.....	75,500	100,789
White Mountain.....	950,114	445,998	107,776	4,959	391,381
Savannah.....	539,702	140,810	15,000	30,000	353,892
Shenandoah.....	461,551	203,169	.....	48,471	209,911
Total.....	8,190,661	2,968,799	251,946	1,158,353	3,810,563
Public land.....	922,082	922,082	.....	.....	.....
Total.....	7,268,579	2,047,717	.....	.....	.....

Includes public lands—

Arkansas.....	.....	625,478.31
Ozark.....	.....	278,563.78
Alabama.....	.....	18,040
Total.....	.....	922,082.09

Mr. KNEIPP. I think that is all I have to present, except to emphasize this fact, that unless appropriations are made, that there is no item of appropriation anywhere for the continuance of this work, except the \$50,000 in the Budget, and if the work is not continued now the present organization will be largely disintegrated. There are at the present time 44 men employed as an examining force and in connection therewith. It would be necessary, in the event there is no appropriation other than the \$50,000 in the Budget, to reduce that force to 17 men. That would mean that the greater proportion of the men who have developed this line of work which, because of Government requirements, is rather unique and intricate, would have to go into other lines of work. And then, if later on Congress should desire to resume these purchases, it would be necessary to build up a new organization, which would be very expensive, both in the time required for the training of new men and in the loss of the skill of the present men.

Mr. MC LAUGHLIN of Michigan. You understand, I presume, that that \$50,000 recommended by the Budget people would be subject to a point of order from the floor, the same as if it were presented by Mr. Anderson's subcommittee?

Mr. KNEIPP. I really do not know. I am not familiar enough with the rules to know that.

Mr. MC LAUGHLIN of Michigan. The presentation of it by the Budget Committee does not remove it from being subject to a point of order, so that even \$50,000 is in danger.

Mr. JACOWAY. Could the amount recommended in the Budget be increased?

Mr. MC LAUGHLIN of Michigan. I do not remember about that. So in order to make it sure that there be an appropriation it would be necessary for this committee to act.

Mr. KNEIPP. As the matter now stands, unless there is some affirmative action taken on this bill of Mr. Wason's, or some other measure of like character, the work will practically come to a close at the end of this fiscal year, except as to some unfinished business which has partly progressed. Now, that would be particularly inopportune at this time, for two or three reasons. The most

important reason is, as you gentlemen know, at no time for a long time has there been as favorable an opportunity to buy lands as at the present time. That is due to the prevailing economic situation, where these operators who have been holding these lands find it necessary to liquidate some of their unproductive assets.

The 40,000 acres we bought last December were purchased at much below what they could have been bought for previously. And on account of that situation, they are trying to convert these lands into cash, and they are offering them at terms that are much better than they previously offered and at lesser prices than they previously held them at. After the present economic condition changes and prices are readjusted, it will not be possible to buy the lands at as favorable prices and terms as they can be bought at the present time.

Mr. JACOWAY. Have you an option on the lands of the Crossett Lumber Co., of Arkansas?

Mr. KNEIPP. No; we have not.

Mr. JACOWAY. Have you an option on the lands shown there——

Mr. KNEIPP (interposing). The Fort Smith Lumber Co.?

Mr. JACOWAY. The Fort Smith Lumber Co.?

Mr. KNEIPP. To some extent.

Mr. JACOWAY. How many acres?

Mr. KNEIPP. Several thousand acres.

Mr. JACOWAY. Do you know at what price per acre?

Mr. KNEIPP. I think \$3.75.

Mr. McLAUGHLIN of Michigan. Did you appear before the Budget committee, or have anything to do with the deliberations of anybody that determined that amount of \$50,000 that was put in the recommendation?

Mr. KNEIPP. No, sir; I did not. Col. Greeley and Mr. Sherman appeared there.

Mr. McLAUGHLIN of Michigan. I have wondered how they arrived at that. It seems to me entirely inadequate.

Mr. KNEIPP. It seems to us entirely inadequate.

Mr. McLAUGHLIN of Michigan. It would leave very little available for the buying of land.

Mr. SHERMAN. We have wondered at that also. In fact, we were advised that Gen. Dawes had already made up his mind what should be done, but he said that he would be willing to hear us. The inclusion of that \$50,000 is a mystery, and is so looked upon by Secretary Weeks, the chairman of the National Forest Reservation Committee. He was not aware that such an item had been included, otherwise he would have recommended that it should be at least \$1,000,000. And I will say that at this time the Secretary is very anxious to develop this program. To-day is cabinet day and it was not possible for the Secretary to come here, but I am sure he would be glad to appear before the committee at any time on 24 hours' notice to give his views on this subject.

Mr. McLAUGHLIN of Michigan. Do you know whether Mr. Secretary Weeks made any recommendation as to what amount should be included?

Mr. SHERMAN. At a meeting in June the commission made a recommendation that at least \$1,000,000 should be included.

Mr. McLAUGHLIN of Michigan. And that proposition was before the Budget Committee?

Mr. SHERMAN. That recommendation was before the Budget Committee.

The CHAIRMAN. What recommendation has the Forester made?

Mr. SHERMAN. The Forester has not made any specific recommendation, except that it be not less than \$1,000,000.

The CHAIRMAN. Is that what he recommended to the Budget Committee?

Mr. SHERMAN. Yes; that is what he recommended to the Budget Committee, that not less than \$1,000,000 be appropriated.

The CHAIRMAN. And the Secretary's recommendation is \$1,000,000?

Mr. SHERMAN. Not less than \$1,000,000. And since December we have held meetings and bought land at much less than it could be bought before and it is shown that we can continue to do that under the present conditions.

The CHAIRMAN. What was the Forest Service recommendation?

Mr. SHERMAN. \$1,000,000.

The CHAIRMAN. And the Secretary recommended \$1,000,000.

Mr. SHERMAN. Yes; and at the present time it is \$2,000,000. At the present time it is distinctly a buyers' market and land is being offered at much lower prices than previously. And it seems to me this is a very opportune time to purchase these lands.

Mr. McLAUGHLIN of Michigan. For the purpose of the record it seems to me something should be said about the overhead expenses and the using of \$50,000 as compared with the overhead expense in using \$1,000,000. It would strike me it would be a great saving in overhead expenses in having the \$1,000,000 and not to have the overhead for the \$50,000.

Mr. KNEIPP. That is true, Mr. McLaughlin, and you might extend that further and say that it applied to \$2,000,000 or \$3,000,000. In other words, the same organization could buy considerably more land without any considerable increase in expenses.

The CHAIRMAN. You say at the present time you have a force of 44?

Mr. KNEIPP. Of inspectors, examiners, surveyors, etc., the force is 44 men at the present time.

The CHAIRMAN. That includes all of them?

Mr. KNEIPP. That includes all of them; yes, sir.

Mr. TEN EYCK. Where did they get their recommendation that this should be cut to \$50,000?

Mr. KNEIPP. Mr. Sherman just endeavored to explain. It was evidently a revelation.

Mr. KINCHELOE. Did anybody ever confer with them on the subject?

Mr. KNEIPP. I shall have to refer to Mr. Sherman as the man on that.

Mr. TEN EYCK. Was there a record made and kept of this matter so that one could look that over?

Mr. KNEIPP. I couldn't tell you.

Mr. TEN EYCK. Was there any record kept the same as we are keeping of this meeting?

Mr. SHERMAN. I believe there was a record made, although I am not positive there was a reporter present.

Mr. CLARKE. Is that record available?

Mr. SHERMAN. I don't know. So far as I know we have never received it.

Mr. KNEIPP. To summarize, to carry out the completion of the original plan, would require the purchase of about three and one-half million acres of land. At the present time there are offered to the Forest Service on favorable terms a total of eight hundred and some odd thousand acres of land, which are estimated to have a reasonable maximum value of four and one-half million dollars.

The CHAIRMAN. Let me ask you how you construe this language. Does it mean \$2,000,000 for 40 years, or—

Mr. KNEIPP (interposing). It would seem to me, Mr. Chairman, to appropriate a total of \$40,000,000 extending over 40 years.

The CHAIRMAN. That is what I understood Mr. Sherman to say. But there seems to be some question about that.

Mr. KNEIPP. The bill seems rather to appropriate the sum of \$2,000,000 for the fiscal year ending June 30, 1922, and it appropriates \$1,000,000 for each fiscal year thereafter up to and including the fiscal year ending June 30, 1943—I will take that back, Mr. Chairman. I had in mind the old bill. This is evidently a new draft.

The CHAIRMAN. It seems that something has been changed.

Mr. KNEIPP. This really appropriates only \$2,000,000 as it stands.

Mr. McLAUGHLIN of Michigan. It authorizes \$2,000,000.

Mr. KNEIPP. Yes.

Mr. McLAUGHLIN of Michigan. And it authorizes such sums as the Congress shall hereafter appropriate.

Mr. KNEIPP. As I understand it, this merely lays the legislative foundation for the action of the Appropriations Committee, does it not, and the amount to be appropriated is within the discretion of the Appropriations Committee, except as to the coming year, where it is limited to \$2,000,000.

Mr. McLAUGHLIN of Michigan. Well, the Appropriations Committee would not be required to appropriate \$2,000,000, even for the coming year.

Mr. KNEIPP. No; it could not appropriate more.

The CHAIRMAN. It could appropriate a billion dollars. "Such sums as the Congress shall appropriate;" it may be a billion dollars, or a million dollars, or one dollar.

Mr. KNEIPP. Yes; that is correct; the \$2,000,000 is simply a limitation upon the appropriation for the coming fiscal year, and it seems that thereafter no limitation applies, of course, it being contingent upon the physical conditions, and so on; and the appropriation first comes before those making up the budget, and then going before the Appropriations Committee.

Mr. McLAUGHLIN of Michigan. To the witness and Mr. Sherman I would suggest that you look this bill over again with the point of view that I raised a few minutes ago, about the use to be made of the money, so that its use shall be confined exclusively to the buying of timber and the payment of overhead expenses involved in the buying of timber, unless you wish to have it so, so that none of the money can be used in cooperating in fire protection. If that is the purpose of the bill, make it clear.

Mr. SHERMAN. It has occurred to me, Mr. McLaughlin, that that might be made absolutely specific in a very simple method, by including, after the word "the" in line 9, the two words "land purchase," so that it will read "to carry out the land purchase purposes of the act of March 1, 1911."

Mr. KNEIPP. How would it be to interpolate the words "Section 3," interpolating simply "to carry out the purposes of section 3 of the act of March 1, 1911?"

Mr. ASWELL. I think it would be well for these gentlemen to work that out privately and then bring it back to the committee.

Mr. McLAUGHLIN of Michigan. That is the idea of you gentlemen, that it is to be used only for that purpose?

Mr. KNEIPP. Yes, sir.

Mr. SHERMAN. It could be done by the insertion of "Section 3 of the Weeks bill." Section 3 is the one that provides for the purchase of these lands, and provides the money for it.

Mr. KNEIPP. I have here two sheets upon which are shown the location of areas in such States as have been examined, the maintenance of which in forests will protect navigable streams; it shows also the acreage of such areas, and the estimated maximum price per acre at which the lands can be acquired, and the total estimated price. These are the tracts which have been tentatively considered. Another sheet shows the approximate location of areas in the Lake States which have not been examined in detail, but which on the basis of available data are regarded as being suitable for the purchase of national forests purposes. And also areas on the Ohio River drainage which has not been examined in detail, but which on the basis of available data are regarded as being available for purchase under the Weeks Act. If they are of interest to the committee they may be put in the record.

The CHAIRMAN. Without objection, they may be placed in the record.

(The data referred to is printed in full, as follows:)

Approximate location of areas in the Lake States which have not been examined in detail but which on the basis of all available data are regarded as being suitable for purchase for national forest purposes.

State.	Counties.	Acreage.	Estimated price per acre.	Aggregate price.
Michigan.....	(1) Northern Peninsula, Chippewa, and Luce....	150,000	\$2.50	\$375,000
Do.....	(2) Southern Peninsula, Roscommon, Ogemon and Alcoma.	250,000	2.50	625,000
Wisconsin.....	Bayfield, Ashland, Iron, and Douglas.....	300,000	2.50	750,000
Minnesota.....	(1) Beltrami and Itasca.....	600,000	2.50	1,500,000
Do.....	(2) Addition to Superior National Forest, Cook, and Lake.	400,000	2.50	1,000,000
Total.....				4,250,000

Areas on Ohio River drainage not examined in detail but which on the basis of all available data are regarded as being available for purchase under the act of Mar. 1, 1911.

State.	Counties.	Acreage.	Estimated price per acre.	Aggregate price.
Illinois.....	Alexander, Unicoi, and Jackson.....	150,000	\$6.50	\$975,000
Indiana.....	Brown.....	80,000	6.00	480,000
Ohio.....	Sciota and Adams.....	100,000	6.00	600,000
Total.....		330,000		2,055,000

Location of areas in such States as have been examined the maintenance of which in forest will protect navigable streams, the average of such areas, the estimated (maximum) price per acre at which lands can be acquired, and the total estimated price.

State.	Proposed purchase unit.	Watershed.		Estimated price per acre.	Total estimated price.
		Local stream.	Final stream.		
Vermont.....	No. 28. Nulhegan.	Connecticut.....	Connecticut.....	38.50	\$2,197,000
Do.....	No. 32. Deerfield River.	Deerfield.....	do.....	7.00	700,000
Kentucky.....	No. 9. Kentucky.....	Kentucky.....	Ohio.....	4.00	2,040,000
Do.....	No. 8. Licking.....	Licking.....	do.....	4.50	1,453,500
Missouri.....	No. 23. St. Francis River.	St. Francis.....	Mississippi.....	4.00	1,874,800
Do.....	No. 22. Current River.	White.....	do.....	4.00	2,343,600
Virginia and West Virginia.....	No. 52. Mount Lake.	New.....	Ohio.....	3.50	1,168,600
Oklahoma.....	No. 53. Oklahoma	Akansas and Red.	Mississippi.....	5.00	3,700,000
Texas.....	No. 54. Sabine, Tex.	Neches, Sabine.	Sabine.....	3.50	805,000
Louisiana.....	No. 55. Sabine, La.	Sabine.....	do.....	3.50	350,000
Mississippi and Alabama.....	No. 59. Pearson Hills.	Tennessee.....	Mississippi.....	5.00	750,000
	Total.....			3,932,500	\$17,582,500

Past experience in purchases indicates, (1) that lands can be acquired at lower prices than estimated in reconnaissance; (2) that it is not necessary or practicable to acquire more than from two-thirds to three-fourths of the acreage within the purchase units. For these reasons it is believed that these lands could be acquired at not to exceed a total of \$15,000,000 at the present time.

Mr. KNEIPP. All that I have to say now is that a study shows a need of the three and a half million acres to complete these eastern forests, as contemplated in the original plan. Of that amount 278,000 acres have actually been examined and is ready for negotiation. Eight hundred and some odd thousand acres has been offered to the Government, and we believe can be secured on very favorable terms. The field officers estimate that within the next four years it will be practicable to secure it.

The CHAIRMAN. How many more witnesses have you, Mr. Sherman?

Mr. SHERMAN. I have a considerable number of witnesses, but whether it will be necessary to call on them depends on the committee.

The CHAIRMAN. The question was raised whether to hold hearings in the afternoon, and for that reason I inquired.

Mr. SHERMAN. The additional witnesses can tell you of the conditions in their various reserves, and the importance of carrying on the work and all of that.

Mr. CLARKE. So far as I am concerned, I do not need any evidence on that; I am thoroughly convinced of that.

Mr. ASWELL. Neither do I.

The CHAIRMAN. Give us an estimate of what time you expect to consume.

Mr. SHERMAN. I think that the foundation has been laid for this matter, and this can be all cleaned up in about 30 minutes.

The CHAIRMAN. Can we get through tomorrow morning, do you think?

Mr. SHERMAN. Yes, sir.

Mr. CLARKE. I wish to compliment this young man on his very lucid statement. He has given us some real information.

The CHAIRMAN. What is the desire of the committee about continuing this afternoon?

Mr. KINCHELOE. I move that we finish the hearing to-morrow morning.

(The motion was duly seconded and carried.)

Mr. JACOWAY. I want to make a request for a time for hearing Senator Dial. He wants to come before the committee at some time for a very short statement, and he asks what time it will be convenient for him to come.

Mr. CLARKE. What is the purpose; what is the subject?

Mr. JACOWAY. On the cotton situation.

Mr. KNEIPP. I want to emphasize this fact, that on the basis of our investigations it will be possible for the Government to spend \$4,000,000 in the next fiscal year; on the basis of very carefully made estimates it will be possible to spend three times that much in the next four years.

The CHAIRMAN. With respect to applications for hearings, and requests for action, we have the following:

REQUESTS FOR HEARING ON ACTION.

Congressman Osborne requests action on H. R. 2238, on American Egyptian Cotton bill, which was favorably reported to the House last Congress.

S. 1034, Game Sanctuary in Montana, has passed Senate and has been referred to this committee.

Congressman Williamson requests hearing on H. R. 9711, labeling alfalfa and clover seed.

Delegate Sutherland requests hearing on H. R. 5950 to increase the percentage of national-forest receipts to be paid to Alaska, and also on H. R. 5953, respecting the advertising for sale of timber on national forests.

The Secretary of Agriculture submits a letter in reference to the claim of Quincy R. Craft arising in the Forest Service.

The Secretary of Agriculture submits a letter and Congressman French calls attention to H. R. 9272, a claim of Henry McGuire arising in the Forest Service.

Congressman Addison Smith suggests deferring grazing fees until December 1, 1922.

The Secretary of Agriculture submits a letter in reference to a bill for \$1,200 to reimburse citrus-canker workers in Alabama.

The Secretary of Agriculture and others submit letters suggesting the payment of meat inspectors for overtime by the Government. They are now paid by individual companies.

The Secretary of Agriculture and Mr. Mondell submit letters in reference to changes in organic law of the department.

Mrs. Boggs and others propose turning over certain lands for tubercular patients.

Mr. Bush-Brown requests another hearing on the proposal to transfer the Mount Weather property to the use of the Soldiers' Institute (Inc.).

Congressman Summers requests a hearing on H. R. 9952, a standardization bill.

Now, these are the requests that have been made upon this committee. When will it be convenient to decide on these things?

Mr. ASWELL. Mr. Chairman, has it been definitely decided to have the first sugar hearing next Monday?

The CHAIRMAN. That is postponed until the 18th. Mr. Ward has written saying that it will not be convenient until the 18th.

Mr. ASWELL. We agreed to have it on Monday.

The CHAIRMAN. It was rather left to Mr. Ward.

Mr. ASWELL. I am interested in the other claim, which is to follow that.

The CHAIRMAN. That follows the other one.

Mr. ASWELL. Why not take up the other bill on Monday?

The CHAIRMAN. Let us have a meeting to decide on this program.

Mr. KINCHELOE. Let us wait until to-morrow and then discuss the whole matter.

The CHAIRMAN. Without objection, then, the committee will stand on recess until 10 o'clock to-morrow morning.

(Thereupon, at 12.10 o'clock p. m., the committee adjourned to meet to-morrow, Saturday, January 14, 1922, at 10 o'clock a. m.)

COMMITTEE ON AGRICULTURE,

HOUSE OF REPRESENTATIVES.

Washington, D. C., Saturday, January 14, 1922.

The committee met at 10 o'clock a. m., Hon. Gilbert N. Haugen (chairman) presiding.

Present: Congressmen Haugen (chairman), McLaughlin of Michigan, Tincher, Sinclair, Thompson, Clague, Clarke, Jacoway, Aswell, Kincheloe, Jones, and Ten Eyck.

The CHAIRMAN. The committee will come to order, please. You may proceed, Mr. Hawley.

STATEMENT OF HON. WILLIS C. HAWLEY, A MEMBER OF CONGRESS FROM THE STATE OF OREGON, AND MEMBER OF THE NATIONAL FOREST RESERVATION COMMISSION.

Mr. HAWLEY. I regret I was not able to be present yesterday, but I had an appointment with the Rivers and Harbors Committee, and I did not have the advantage of hearing the evidence presented yesterday. I understand that a very able statement was made relative to the National Forest Reservation Commission's work in the acquisition of lands.

Mr. CLARKE. A splendid statement was made by this young man, and I would compliment him very much.

Mr. HAWLEY. Yes; I would approve of any compliment made of him.

Mr. CLARKE. And he is out of the domain of glittering generalities.

Mr. HAWLEY. The National Forest Reservation Commission was organized in 1911. Mr. Lee, of Georgia, and myself, then both having the honor of being members of this committee, were designated as two members of the commission, and we have served on the commission ever since, participated in all its works and the purchases, and examined considerable areas in which purchases are being made.

I do not know of what particular phase of the work I should speak this morning, and if there are any questions any gentleman has in mind to ask I shall be very glad to answer.

The CHAIRMAN. I think the committee would be more interested in the future program of the National Forest Reservation Commission; what you have in mind to do, if the money is appropriated.

Mr. HAWLEY. Did they yesterday exhibit to you maps of the purchase areas?

Mr. CLARKE. Yes, and the projected areas were shown. We were shown the maps.

Mr. HAWLEY. Our future program will include, first, the general consolidation of the purchase areas, in which purchases are already being made, for the purpose of more generally controlling the fire-hazard situation, and diminishing the per acreage cost of the administration of the forests. It is not usually advisable to attempt the acquisition of every acre within a purchase area for the reason that when only small fractions remain and the owners think you must buy them, a price may be asked that is more than the lands are worth.

We have since the beginning never been put in a position where we had to buy a piece of land, with possibly a half a dozen exceptions, of very small areas, which controlled the outlet to river or road of an area that we possessed or some other outlet through which naturally we would have to go, and in those instances we have endeavored to obtain fair prices, and I think we have.

When the bill was passed it was supposed that large owners would get together, or speculators would go into the field and get options to control very considerable areas for the purpose of speculating at the expense of the Government. We early declared that we would buy of the original owners. We would not buy of those holding options. And so we have dealt directly in every case, I think—I do not now recall any exceptions; there may have been exceptions—with the then owners of the property, and have not allowed the Government funds to be expended for the payment of a speculative profit to some one holding an option on land. For that reason the lands have been more open to purchase, and we have not been troubled with attempts to force upon the Government prices for lands which were out of all proportion to their values. And we will continue in the future the present policy.

The Forest Service was created the agency for making the examination of the lands. The experience of these men in administration of forests is at the service of the Government, and their experience as woodsmen in connection with lumbering operations, cruising and logging has especially qualified the trained employees we now have to examine land, determine the quality of the soil—and we have the assistance of the Department of Agriculture if the quality of the soil is not apparent to a general observer—and to determine the quality and quantity of the timber, its value on the stump, the nearness of markets, and the local and general demand, and every other question connected with the purchase of the lands.

For instance, there are on the Atlantic Coast some 22 different varieties of oaks. Market prices for the products obtained from them vary, and it takes a man skilled in the forest work of this section of the country to determine what is a proper valuation is to be given to any tract of land.

Now I think the question was raised yesterday as to the cost of acquisition outside of the payment for the land itself.

The CHAIRMAN. Yes; that was gone over. That was taken up and discussed here yesterday.

Mr. HAWLEY. And is the committee satisfied on that, or would you like to hear further on it?

The CHAIRMAN. I think the committee is satisfied on that. It was explained yesterday.

Mr. HAWLEY. It costs about 88 cents an acre. The Forest Service makes preliminary examinations as to the character of the land, the possibility of its reforestation, amount of forest growths upon it, the price at which such lands have been sold in the localities within recent years, the amount at which such lands are assessed for purposes of taxation, and other factors determining the value of the land for our purposes, and after the commission has authorized the purchase, there is further work to be done, including the horizontal survey of the land.

In the South especially they used to buy on the contour survey. The government has always used the horizontal survey in its measurements of the areas of public lands, and, coming from the West, I insisted that all purchases made by the commission should be made on the horizontal survey. This frequently reduces the areas as estimated by the sellers and the Government does not accept defective titles. So that practically all our acquisitions must pass through condemnation proceedings. Operating companies are willing to take a chance. They will buy a considerable body of land, and if there are areas included to which the title is disputed they may lose some portion of the land. They put that down to profit and loss. Moreover, the system of titles in the South is very much complicated by various kinds of grants that have been made from time to time to different grantees to the same areas of land, or to parts thereof. We never take an imperfect title. So we do not lose any of the area that we propose to buy. And that does not have to be written off the books as operating companies must write their areas lost off their books. And in comparison with operating companies I think our cost per acre, especially taking into consideration the results we obtain, is a very moderate cost per acre, especially since it insures to the Government the absolute title to the land.

Mr. CLARKE. Mr. Hawley, I think there was some confusion, maybe, in the minds of some of the committee as to where the Government bought these lands as to the title they were to give. I know Mr. Tincher raised the question, and I think Mr. Jones as well, that the seller of the land must have good and perfect title. I do not think they had quite an appreciation of the problem of the South, of many of these overlapping grants, as you say, where you are going through the thing. I know I bought some acreage down there with my law partner some years ago and we found that condition. Maybe a little elaboration of that might help.

Mr. HAWLEY. Yes; we practically resort to condemnation proceedings. A special act added to the original act to give us that authority, in order to assure us that the titles taken should be unassailable.

Mr. SINCLAIR. I was going to say that the viewpoint that Mr. Jones and Mr. Tincher had in the first place was that all that was necessary was the passage of a merchantable title, the usual title in business transactions, but since we have heard from Mr. Kneipp and yourself, why, we have a different idea of what the Government must have in the way of titles.

Mr. CLARKE. I think it would be well to put that in.

Mr. SINCLAIR. Yes.

The CHAIRMAN. I think what the committee has in mind is the usual practice in the West.

Mr. SINCLAIR. Yes; that is what we have had in mind, the usual practice in the West. That is, of course, the passage of a merchantable title. But since we have heard from Mr. Kneipp and yourself, Mr. Hawley, we have a different idea, as I say, of what the Government must have in the way of titles.

Mr. HAWLEY. The lands purchased by the commission are acquired under titles that are unassailable and all steps necessary to make them so are taken.

Mr. SINCLAIR. Yes; this is an absolute title.

Mr. HAWLEY. Yes.

Mr. SINCLAIR. A very different thing.

The CHAIRMAN. Well, it is quite different there from what it is in your State and my State.

Mr. SINCLAIR. Yes.

The CHAIRMAN. In our section of the country the seller guarantees the title and furnishes the abstract. All we have to do is to pass on the abstract.

Mr. SINCLAIR. There is practically no expense to the purchaser at all, except in connection with the abstract.

The CHAIRMAN. What is the expense of this condemnation now? How much does that add to it?

Mr. HAWLEY. That will depend, Mr. Chairman, upon the number of contestants that may be developed in the purchase of any area, and the state of the records.

The CHAIRMAN. You have to have it advertised and you have to have it appraised?

Mr. HAWLEY. Yes; the usual court proceedings are had. Now, here is a map that you might examine at your convenience, which shows grants in North Carolina, and if you would examine it I think you would find that the grants were six or seven deep. That is, six or seven persons had grants which overlapped on various portions of these lands.

Mr. SINCLAIR. Overlapping grants.

Mr. HAWLEY. Overlapping grants in whole or in part?

Mr. SINCLAIR. Yes.

Mr. HAWLEY. Consequently the only way to untangle the situation is to take it to the court and let all those that are interested appear, and let the court decree to the Government a complete and perfect title. Now we desire to fill in the purchase areas up to a certain point.

The CHAIRMAN. Just a moment, Mr. Hawley, while we are on that question. The question was raised yesterday as to the cost of examining the title—about 40 cents per acre. Have you anything to say about that?

Mr. HAWLEY. I do not know that I would have anything to add to what was said by the gentlemen who spoke on that subject yesterday. I understand they went into that very thoroughly.

The CHAIRMAN. They did.

Mr. HAWLEY. Now we desire to fill in, as I said, the areas in which we are now purchasing. We buy to the best advantage. We usually begin by buying in a purchase area, a considerable tract, obtained at the lowest possible price.

Mr. SINCLAIR. I think the committee would like to know about how fast you are making those additional purchases per year, annually, and about how much money you have invested in it.

Mr. HAWLEY. Well, in 11 years we have purchased a little over 2,000,000 acres. The acreage purchased will vary from year to year, but the acquisitions have proceeded steadily, and the quantities purchased year by year will be comparable.

Mr. KINCHELOE. What appropriations were you getting?

Mr. HAWLEY. We had under the original act \$2,000,000 a year, and recently have had in one year \$600,000, and one year \$1,000,000.

Mr. KINCHELOE. You mean additional?

Mr. HAWLEY. Yes; in addition to the amounts appropriated in the original act.

Mr. KINCHELOE. You mean you have been getting until recently \$2,000,000 per year?

Mr. HAWLEY. Yes; for the first five years we had \$2,000,000 per year. An amendment to the law made the amounts for each year available until expended, and \$3,000,000 of the original \$11,000,000 which lapsed owing to delay in the passage of the act was also reappropriated.

Mr. KINCHELOE. The original appropriation has been supplemented by subsequent appropriations?

Mr. HAWLEY. Yes, sir; that has been supplemented by subsequent appropriations.

Mr. KINCHELOE. And that is all used in the purchase of this land, is it?

Mr. HAWLEY. For the purchase of land and obtaining the title, except small amounts for protection until lands acquired had been included in national forests.

Mr. KINCHELOE. And other charges?

Mr. HAWLEY. Yes.

Mr. SINCLAIR. That is an adequate appropriation to purchase as fast as you deem it advisable?

Mr. HAWLEY. Well, \$2,000,000 per year will afford the commission the opportunity of taking up the better bargains.

Mr. SINCLAIR. I see.

Mr. HAWLEY. I believe—and I think the other members of the commission and the Forest Service agree—that during the next two or three years we will have exceptional opportunities in purchasing land for the Government. The average price heretofore paid per acre was \$5.11 for the land. We bought some 130,000 acres a few weeks ago at \$3.33 an acre. There are considerable areas that have been logged and other large areas, which the holders, who probably were oversanguine during the period of the war, now wish to dispose of, and, for various other reasons, there will be areas coming on the market during the next few years that will be offered at prices we can not get them for later on.

Mr. KINCHELOE. Well, in view of that fact, don't you think that just as a matter of business there ought to be more than \$2,000,000 spent during this coming year?

Mr. HAWLEY. Well, it would be good business, but there is always the practical side to look at—the possibility of obtaining an appropriation in excess of that which was the normal appropriation in former years, the appropriation of \$2,000,000 a year.

Mr. KINCHELOE. Yes; that is true; I appreciate that. Where do you contemplate making your purchases now, Mr. Hawley? Have you any specific territory in mind?

Mr. HAWLEY. Yes; we are considering purchases in the areas in which we are now purchasing—that is, in the White Mountains and the Appalachian Mountains, from Pennsylvania down to northern Mississippi and Alabama. We are purchasing some in Arkansas.

Mr. KINCHELOE. The testimony has shown in the hearing on the other bill apparently that some of the finest hardwood lumber grown in the world is in Kentucky.

Mr. HAWLEY. Yes.

Mr. KINCHELOE. In those mountains of Kentucky up there.

Mr. HAWLEY. We are not contemplating the addition of very many purchase areas, but I think we will probably add a purchase area in Kentucky, because the watersheds there are of sufficient importance to require protection. And possibly in Texs. But we are contemplating devoting the money first to consolidating the areas we now hold to reduce the cost of administration and the fire hazard in the land already owned by the Government, and then to make purchases outside, for two reasons: First, if the lands which we have in mind to buy in proposed areas are lands which we ought to buy; and, second, if we are not confined to established areas, we will get better pieces in the established areas by reason of the competition that thus develops.

Mr. KINCHELOE. Well, has it ever been contemplated to purchase in Kentucky? Why is it, in other words, that you never bought any in the mountains of Kentucky? I am just asking as a matter of information, because I know the watersheds are abundant, and I know there are the finest hardwood and oak forests in the world there, and there is a vast territory there that would come within the province of the Weeks law.

Mr. HAWLEY. Yes. In the early history of our work we bought in eastern Tennessee. As I remember, we considered some land in Kentucky, but at that time Kentucky had not passed the legislation necessary to enable us to do so. This has recently been enacted and the commission can make purchases in Kentucky.

Mr. KINCHELOE. Of course, I imagine that you would have to buy on the surface there because of the tremendous mineral deposits, the deposits of coal there. Of course, those prices would be prohibitive, unless they are bought to the surface.

Mr. HAWLEY. And there is also this to be taken into consideration: The available areas are very large, which, to a certain extent, compete for purchase we might be willing to buy in certain sections, but there are other localities, equally valuable for the purposes of the law, where we can get land for much less money. We ought to spend the Government's money where we get the greatest return for the money expended.

Mr. KINCHELOE. Well, of course, I wasn't talking about that because of the fact that I am from Kentucky, but the point I had in mind is this: I understand that Virginia, West Virginia, Tennessee, Kentucky, and a portion of North Carolina grow perhaps the best and the finest hardwood lumber in the world, and it does not seem from this map here that there has been very much governmental activity in acquiring very much of those lands through there.

MR. HAWLEY. We have bought considerable areas in Virginia and West Virginia.

THE CHAIRMAN. Mr. Hawley, would you be willing to yield to Secretary Weeks, who is present? As you know, he is a very busy man, and he expects to talk to the committee just a few minutes.

MR. HAWLEY. Mr. Secretary, you and I once sat on this committee together. Secretary Weeks. I was a good farmer then.

THE CHAIRMAN. Mr. Secretary, we will be pleased to hear from you.

(Mr. Hawley yielded in order to allow Secretary Weeks to make a statement.)

STATEMENT OF HON. JOHN W. WEEKS, SECRETARY OF WAR.

SECRETARY WEEKS. I am sorry to ask Mr. Hawley to step aside, but there are a good many things that I have to do, and I shall be glad to get back to my office, Mr. Chairman, as soon as possible.

THE CHAIRMAN. We appreciate that, Mr. Secretary, and Mr. Hawley is always accommodating.

SECRETARY WEEKS. I come here for two or three reasons. I was in at the beginning of this legislation, and the law happens to bear my name, because I think I introduced the bill. I have been, naturally, interested in the manner in which the law has been carried out. I think it has been wisely administered.

As far as the northern section is concerned, I am very familiar with the purchases that have been made, and I am sure that the Government could sell its purchases at materially more than the land has cost. Largely it is in a section where spruce pulpwood is growing to a greater or less extent, and of course it is very valuable, and I think I am quite within bounds in saying that it has been a good investment for the Government. And I don't know but what that is true in other sections, but I am not so familiar with that.

And I want to call the attention of the committee to the fact that this is not really an expenditure of funds; it is an investment. It is not only an investment in protecting the navigation of streams, but it is an investment per se, and that it should be considered somewhat from that standpoint.

In this particular matter that is before your committee, Mr. Chairman, I was not aware until this morning that the Budget did not carry more than \$50,000. I had gotten the impression that it did carry \$500,000. Now, it is true that we are all struggling to reduce expenditures to the minimum. If this were an ordinary expenditure, I might look on it with more tolerance, but, as I have just stated, I do not think it is. I do not believe—now, I do not know this—but I do not believe that the Budget officers fully comprehended the meaning and the requirements of this situation.

MR. McLAUGHLIN of Michigan. Mr. Secretary, in the organization of that commission are you the chairman?

SECRETARY WEEKS. I am the chairman, yes; as the Secretary of War.

MR. McLAUGHLIN of Michigan. Did your commission take any action in the way of making a recommendation to the Budget officers?

SECRETARY WEEKS. The commission recommended an appropriation of \$1,000,000, but I want to say that I did not appear before the Budget officers or take any part in it. That, I assume, was left to the active officers of the Forest Service. I am sorry for that, because I rather think that I could have put a different phase on it if that had been done.

Now, as I say, we are trying to economize in every way. The knife is being put in by department officers. On the other hand, I do not think it is good policy for Congress or for the Government, if we are going to have a Budget, to materially vary from the reports of the Budget. Two bills have already passed the House of Representatives with material reductions in the recommendations of the Budget. I am not sure personally, because I do not know, but I am told by the heads of those departments that the amount of money that has been appropriated by the House in those bills will absolutely necessitate the reduction or the limiting of the activities in their departments. I know, as far as the War Department is concerned, we have honestly cut to the bone, assuming that the Army is to be continued at its present size, and any reductions from the Budget appropriations or any material change will mean a reduction in the activities of the War Department.

Now, Mr. Chairman, I want to say that I am anxious that an appropriation should be made. I think it is desirable to continue this work. I doubt the propriety of appropriating \$2,000,000 this year. I think the recommendation of the

commission was about what it should have been. But I think this thing can be presented to the Budget Commissioner so that we may get a supplemental recommendation from the commission, and without any consultation with anyone else, except what I have just said to you, I want to suggest that an attempt be made when Gen. Dawes returns—he is now in the South—to get a supplemental estimate from the Budget Commission. I think it would go better from every standpoint if that were done.

Mr. HAWLEY. Mr. Chairman, would Secretary Weeks pardon me a moment?

Secretary WEEKS. Yes.

Mr. HAWLEY. I think there is one thing that has not been brought to his attention that makes this legislation in order. I have understood that the Committee on Appropriations holds that the Weeks law is not sufficient basis of authorization for further appropriations, although an appropriation was held in order in a preceding session; that they have no legislative sanction for making an appropriation, and that this legislation is necessary to give them legislative sanction.

Mr. McLAUGHLIN of Michigan. Mr. Hawley, on that theory this \$50,000 would be subject to a point or order.

Mr. HAWLEY. Unless it was determined as being necessary for administrative purposes.

The CHAIRMAN. I take it that the Secretary means that this matter be held up temporarily, and then if the Budget Commissioner submits an estimate—

Mr. McLAUGHLIN of Michigan. Well, that would not solve the problem for the Appropriations Committee. They would say: "Where did Dawes get his authority?"

The CHAIRMAN. If a recommendation for a supplemental appropriation is authorized by the committee.

Mr. KINCHELOE. You mean that the contention of the Appropriations Committee is that the original Weeks Act has expired; does not authorize the continual appropriation?

The CHAIRMAN. After all, it was held in order a year ago.

Secretary WEEKS. I do not know on what basis they have come to that conclusion, Mr. Chairman.

Mr. HAWLEY. That is the situation to which I desired to call your attention.

Secretary WEEKS. That is the conclusion. I am rather surprised at it, because I rather supposed that it depended on an appropriation, and nothing else. But I am not in a good position to recommend or advocate varying from the Budget officer's recommendations to Congress. I should be loath to do it in most cases, and I very much prefer, as far as I am personally concerned in my advocacy of this, that an attempt should be made to get a supplemental estimate from the Budget.

Mr. McLAUGHLIN of Michigan. Mr. Secretary, in that connection, there has been a difference of opinion about the duty or the right of Congress to vary from the recommendations of the Budget people, many believing that the Congress ought not—perhaps has not the right—to increase an appropriation above the recommendation of the Budget. Yesterday that matter was up in the House in connection with the Post Office appropriation bill, and an amendment was adopted increasing the amount recommended in the Budget. So the House has gone on record as willing and as having the right to increase the amount recommended by the Government.

Secretary WEEKS. Well, there may be some very unusual case.

The CHAIRMAN. That absolutely destroys the Budget system.

Mr. McLAUGHLIN of Michigan. No; that does not destroy the Budget system.

Secretary WEEKS. There may be some unusual case where that may be desirable, but I am a great believer in the Budget system, and I think any material variations from its provisions are going to be fatal to the system.

Mr. McLAUGHLIN of Michigan. I am a great believer in the Budget system, but I do not believe in giving to Mr. Dawes or anybody else the right to say what the appropriation shall be, and to take away that right altogether from the Congress.

Secretary WEEKS. Well, I think the Congress decided that right yesterday—that in the final analysis the Congress has the say as to what appropriations shall be made. But if we are going to have a Budget system that is going to be effective at all, any material variation in the way of increase is going to be pretty nearly fatal, because the Budget is based on the theory that we have got so much revenue, and that the revenue is divided among the different departments in proportion to their requirements, and increases would necessitate

deficits, which none of us believe in and which I do not intend to have in the War Department.

Mr. KINCHELOE. Mr. Secretary, you said your idea was that we ought not to expend over \$1,000,000 during this next fiscal year for this purpose. In view of the fact that land is lower now than it has been for years, and also, in my judgment, than it will be any time in the immediate future, do you not think it will be a very prudent thing during this fiscal year to buy as much of this cheap land as possible?

Secretary WEEKS. Well, quite likely that is true, but that is all based on the financial ability of the Government to do the things which ought to be done.

Mr. KINCHELOE. That is true.

Secretary WEEKS. Now, that in substance is all I have to say, Mr. Chairman, I did not come here to disturb the proceedings at all. I was asked to come. And I have expressed my judgment. But I want to add that I am earnestly in favor of continuing this policy. I think it is justified from every standpoint by the Government, and I hope that an appropriation will be made.

Mr. McLAUGHLIN of Michigan. Mr. Secretary, you say you dislike to appear before the commission, before the Budget people?

Secretary WEEKS. Oh, I did not mean to say that. Oh, no; I would be perfectly willing to appear before the Budget people.

Mr. McLAUGHLIN of Michigan. I misunderstood you then.

Secretary WEEKS. I would be perfectly willing to do it, and will do it.

Mr. KINCHELOE. I understood your idea was that it ought to come that way.

Secretary WEEKS. Yes; my belief is that it ought to come that way. Then I think you will have less trouble with the appropriation in the House, although you know more about those things than I do. And it is the regular way to proceed, it strikes me.

Mr. McLAUGHLIN of Michigan. Another thing. It is advocated that purchase of lands be made regardless of the fact that—well, outside of the Weeks bill, not altogether for the protection of navigable waters. Is it your understanding that the commission already has adhered very strictly to that law, and bought nothing outside, and have not stretched the law in any way?

Secretary WEEKS. Well, I can not answer that question with any degree of knowledge. I have only been a member of the commission a short time. I have only had an opportunity to attend one or two meetings, and I have not given any personal attention to that. Mr. Hawley, who has been a member of the commission from the beginning, could answer the question much more intelligently than I.

Mr. McLAUGHLIN of Michigan. Another thing. You remember very well the opinion given by the Committee on the Judiciary on the matter of constitutionality of buying lands for forestry purposes alone.

Secretary WEEKS. Yes.

Mr. McLAUGHLIN of Michigan. That question is still before it. Now, yesterday, at a hearing I suggested that this committee, or somebody, ask the Department of Justice for an opinion as to the constitutionality, and I thought this committee and the Congress would follow the opinion of the Attorney General. That matter will have to be settled in this committee before we can get very far.

Secretary WEEKS. I recall very well when this legislation was before the House a dozen years ago that it was the pretty general opinion of the lawyers in Congress that you had to make the connection between the purchases of land, of forest lands, and navigation in order to make it constitutional. I am not a lawyer and my opinion is of no value on that subject, but that step was taken to insure its constitutionality.

Mr. McLAUGHLIN of Michigan. Well, what is the process by which we get an opinion from the Department of Justice as to the constitutionality of proposed legislation?

Secretary WEEKS. Well, I think that you could ask him, but if you wish that opinion I think the Forestry Commission might very properly ask the Attorney General for an opinion.

Mr. McLAUGHLIN of Michigan. There is some question as to the right or the duty of the Attorney General to give an opinion. Is he required to give it at the request of a committee or by the head of a department, or by the President, or how is he reached?

Secretary WEEKS. I don't know that the Attorney General has given opinions to committees of Congress. He does give opinions to departments whenever re-

quested. I have occasionally had to ask his opinion, although there is a law department connected with the War Department. In one case I asked his opinion where it did not seem to me that our law department opinion was sound, and the Attorney General decided that it was not sound.

Mr. McLAUGHLIN of Michigan. Would the Attorney General be authorized to give an opinion at the request of this commission?

Secretary WEEKS. Well, I should be willing, as the president of the commission, to ask it.

Mr. McLAUGHLIN of Michigan. Well, as Secretary of War, you might get that opinion from the Attorney General.

Secretary WEEKS. I think I can get that opinion from the Attorney General.

Mr. McLAUGHLIN of Michigan. Do you not think it would be advisable for us to do it?

Secretary WEEKS. If you wish it.

Mr. McLAUGHLIN of Michigan. I have said that the Congress practically approved the finding of the Committee on the Judiciary at the time the Weeks bills was passed in 1911, and my impression is that that report standing, and the Congress having taken that action, the present Congress would be loath to depart from it and authorize the appropriation or make appropriation for the purchase of land merely for forest purposes.

Secretary WEEKS. Well, if our information at that time was correct I should doubt the right to do it, but it may not have been correct. We had no other opinion than that of the Judiciary Committee of the House. We did not go to an executive branch of the Government, and it has never been brought before the courts, as far as I know.

Mr. CLARKE. Mr. McLaughlin, we had, if you recall, at the time of the sugar hearings appearing before the committee not alone the attorney for the sugar commission, but we had the Attorney General come up here and give an opinion.

Mr. KINCHELOE. Well, that was on account of the fact that they claimed that the contract was encouraged by the Department of Justice.

Mr. CLARKE. Yes; but it was an opinion from the Attorney General just the same.

Mr. KINCHELOE. Well, I think it is not only proper, but it ought to be absolutely necessary for us to get an opinion of that kind in view of our own oath. I would not like to be in the ridiculous attitude of going before the House and asking for a bill that is not constitutional.

Mr. McLAUGHLIN of Michigan. In some States of the Union the supreme court is not permitted to express an opinion as to the constitutionality of a thing before a law is passed. It can pass on it only in an actually litigated case that comes before the court. That is in some of the States. I remember in this very connection. Mr. Secretary, that the action of the Legislature of the State of Maine and of the supreme court of that State was cited. The legislature there asked the opinion of the supreme court as to the constitutionality of proposed legislation to regulate private owners in the use of their forests, in the cutting of them and the care of them, and the supreme court of that State rendered an opinion to the effect that the State had the authority under the constitution to do what was proposed by the legislation. But in some of the States that can not be done.

Secretary WEEKS. Well, I do not think it can be in Massachusetts. But in this case you are not asking the court; you are asking an executive officer of the Government, which would be quite a different matter.

Mr. KINCHELOE. Your Attorney General would be authorized to do it?

Secretary WEEKS. Undoubtedly.

Mr. KINCHELOE. Of the State?

Mr. McLAUGHLIN of Michigan. I think that is something that should be done at once—to get the opinion. I suggest the proper course be taken.

Secretary WEEKS. Let me clear a doubt which you seem to have in your mind. What I intended to say was that I disliked to argue any variation from the report of the Budget officer, and members of the committee can very well appreciate my position in that matter. And I did not intend to say that I would not appear before the Budget officer nor consult with him about making the supplemental recommendation, which I shall be very glad to do.

The CHAIRMAN. We are very glad to have heard you, Secretary. The committee will now hear you, Mr. Hawley.

STATEMENT OF HON. WILLIS C. HAWLEY—Continued.

Mr. HAWLEY. I have just a few more things to say, but, before I say them, I wish to comment on these matters that were just discussed.

In answer to Mr. McLaughlin's question as to whether the National Forest Reservation Commission confined itself to the purchase of lands within the boundaries that contributed to the navigability of streams—I say that we have religiously adhered to that. We have always met that requirement, and the Geological Survey is directed in the law to examine the areas before the Forest Reservation Commission purchase areas, and the Survey certifies that the lands within a given geographical area are necessary for the protection of navigability of streams, and we never have bought outside of their designations.

Mr. KINCHELOE. Well now, Mr. Hawley, what does that include? May it include all of a watershed of a stream?

Mr. HAWLEY. Yes.

Mr. KINCHELOE. So if the water that falls on that shed goes into this navigable stream it is within the purview of this act?

Mr. HAWLEY. Yes.

Mr. McLAUGHLIN of Michigan. Who determines whether or not a stream is navigable?

Mr. HAWLEY. Well, we have assumed that to be determined by the acts of Congress making appropriations for river and harbor improvements. I think that we have not spent money for the purchase of lands at the headwaters of a stream that is not navigable in some portion.

Mr. McLAUGHLIN of Michigan. You could not safely follow that rule, because I know of—

Mr. HAWLEY (interposing). We have considered that a stream is navigable in law if it is navigable in fact. All the watersheds on which we have purchased lands supply streams so clearly navigable that no question exists. We have also the opinion of the Geological Survey.

Mr. McLAUGHLIN of Michigan. Yes. It may be navigable in law if it is not navigable in fact.

Mr. HAWLEY. Well, we have used both of the opinions; navigable in fact and navigable in law.

Mr. McLAUGHLIN of Michigan. I know of streams that have been held to be navigable, and the Corps of Engineers has refused to make any recommendation whatever to approve the appropriation.

Mr. HAWLEY. I think the question of navigability can, as cases arise, be so clearly determined that no question will arise. The areas in which we can buy are so large that disputed areas will be avoided.

Mr. McLAUGHLIN of Michigan. No; but there are times when it appears that a stream may be navigable and still no appropriation made for its improvement.

Mr. KINCHELOE. Well, in arriving at the fact whether a stream is navigable, do you take into consideration the fact that logs may be transported down that stream?

Mr. HAWLEY. That is a part of the description of a navigable stream.

Mr. KINCHELOE. Well, of course the streams where Congress has appropriated anything for their navigation have been declared navigable by Congress so that they might get the appropriation. So I take it from the rule that you lay down there, that the commission adheres to, that you do not buy any land that is the watershed of any stream that has not been declared navigable by act of Congress?

Mr. HAWLEY. I think we have made no purchases on watersheds where the streams which they supply have not been declared navigable by act of Congress.

Mr. KINCHELOE. Do you think that it is navigable in fact if logs are transported down there in rafts, notwithstanding boats are not used on the river?

Mr. HAWLEY. I think boats use parts of all the rivers on the headwaters of which we have made purchases.

Mr. KINCHELOE. I know of rivers in Kentucky where they are declared navigable by act of Congress, and there can be no trade by means of boats, there can be no traffic hauled down there by boats, and yet at the same time there are millions of logs that are rafted down, in high-water time, of course.

Mr. McLAUGHLIN of Michigan. And there are rivers that are feeders to navigable streams, and absolutely necessary to feed navigable streams.

Mr. HAWLEY. Such are within the purview of the law.

Mr. McLAUGHLIN of Michigan. That is within the purview of the law, and purchases of land for the protection of those small streams can be made.

Mr. JONES. Well, under that construction there could hardly be any stream anywhere that is not navigable, or that could not be construed as being navigable, because they all finally feed into a navigable stream.

Mr. HAWLEY. No; there are some that do not.

Mr. JONES. They are relatively few.

Mr. HAWLEY. Now the question was made a moment ago about the Budget. I want to say this. I was a member of the select committee that framed the Budget law and gave a great deal of attention to it, and believe in that system. But as a Member of Congress, taking the oath of office I must look to my own final responsibility for my vote for any particular item. I intend to follow the Budget Commission's report, and as they get experience in that work I shall more and more readily follow it, if I am honored with continuance in Congress. But in any particular matter where a national policy is involved, and it seems to be wise to increase an appropriation—it may be over what the Budget officers reported—on information that we have obtained, it seems to me that we are required to exercise our own judgment.

Mr. McLAUGHLIN of Michigan. I agree with you entirely. We have a perfect right to decrease or increase the Budget report.

Mr. HAWLEY. But as the Budget officers have more experience and wider knowledge of the situation I think the Members of Congress will readily concur in the estimates submitted. The most difficult thing in this world to secure—I think every member of the Congress will agree—is absolute, complete and trustworthy information, but after we obtain we act upon it.

Mr. McLAUGHLIN of Michigan. But after they get all the information available that is still a matter of judgment and opinion, and the Congress can not surrender that to anybody.

The CHAIRMAN. Now, Mr. Hawley, isn't it a fact that Congress has absolutely surrendered that responsibility and power? Let us see about it.

Mr. HAWLEY. I do not so understand.

The CHAIRMAN. You recall the arguments. The purpose was to hold the administration responsible for these appropriations, to bring the appropriations within the receipts. Then if Congress exercised its power, which it did before, and which I think it should, the executive branch of this Government could not be held responsible for the appropriation.

Mr. HAWLEY. Well, we are responsible for the education of the executive officers very many times, as the gentlemen know.

The CHAIRMAN. We are responsible for surrendering that power, and if we are going to act in good faith we have to leave it to that department. Of course, if we are going to change back to the old system, that is a different thing.

Mr. HAWLEY. Well, that is very interesting, but it is outside of the discussion.

The CHAIRMAN. That is very interesting to me.

Mr. HAWLEY. I understand. I made that first remark in connection with the suggestion Mr. Secretary Weeks made, that it might be advisable only to go to the Budget officer. It seems to me this is legislation, and that any information the Attorney General may give is not pertinent to the bill now pending before us and to which I was referring. The Appropriations Committee takes the position, as I understand, that there is no direct warrant in the law authorizing the appropriations for the purchase of lands; and that Mr. Wason, as a member of the agricultural subcommittee in the Appropriations Committee, introduced this bill to provide authorization for appropriations, although an appropriation was held in order in a preceding session of Congress.

Now, that has nothing to do with what the Budget officer may recommend. This is the basic law. There is an authorization here for \$2,000,000 per year—that is, not to exceed that amount—and this warrant of law is necessary if the understanding is correct. But it does not bind the Budget officer unless we can show good cause for recommending the expenditure of \$2,000,000.

Mr. McLAUGHLIN of Michigan. If \$100,000,000 was recommended, he could still recommend, as he does this year, \$50,000.

Mr. HAWLEY. Yes. It seems to me that this bill as it is should be recommended as written. Then it will depend upon the officers who are concerned in the expenditures to show to the Budget officer that the amount up to \$2,000,000 per year may be wisely expended.

Mr. McLAUGHLIN of Michigan. Now, Mr. Hawley, as to the wording of this bill. This is authorizing an appropriation to carry out the Weeks Act?

MR. HAWLEY. Yes.

MR. McLAUGHLIN of Michigan. Some of us might be willing to make appropriations to carry out the purchasing phase of the Weeks Act, where we would not be willing to make appropriations to be used for fighting forest fires for States and private individuals.

MR. HAWLEY. Well, sir, we do not use that money for those purposes.

MR. McLAUGHLIN of Michigan. Oh, under the Weeks Act it can be used. There is a clause of the Weeks Act that provides that some of this money can be used for—

MR. HAWLEY. I did not understand your question. I am speaking now for funds to continue purchases of lands and expenditures connected therewith.

MR. McLAUGHLIN of Michigan. Well, the act that you are approving here does not limit it to that.

MR. HAWLEY. I was speaking of the purchase feature only. Other expenditures should be provided for in other appropriations.

MR. McLAUGHLIN of Michigan. The bill that you are approving now, authorizing the appropriation under the Weeks Act, or extension of the Weeks Act, keeping alive the Weeks Act, if the bill should become law as drafted, as I see it, any money appropriated could be used by the Department of Agriculture in any of the ways provided by the original Weeks Act, and one of those ways is fighting forest fires.

MR. HAWLEY. There may be a time before the lands are formally acquired and included in the national forests and provided protection as parts of them where it may be necessary to take care of Government purchases temporarily. Areas acquired are included in national forests promptly, and the lands are protected out of the funds appropriated for their protection. The agricultural appropriation bill contains the appropriation for the protection of the forests.

MR. McLAUGHLIN of Michigan. Oh, for the protection of the Government's own lands, especially the lands bought with the money appropriated under this act, that is all right. But, as I look at it, if this Wason bill should be passed and appropriation made, the Secretary of Agriculture could use it under section 1 of the act, which provides for cooperation with the States in fighting these fires on private lands.

MR. HAWLEY. I don't think that will be done. The purpose of this bill is to provide funds for the purchase of lands.

MR. McLAUGHLIN of Michigan. Well, what does the bill mean? That is what I am talking about.

MR. KINCHELOE. His idea is that the bill ought to be amended to say specifically that it is under section 3 of the Weeks Act—the money expended.

MR. HAWLEY. So far as the commission is concerned, we intend to use any appropriation made for the purchase of lands. If the appropriation is diminished to \$50,000, it means that the organization that we have, which is highly skilled, experienced in all questions pertaining to the examination of lands, will have to be largely disbanded.

It will mean another thing. There are now pending before the Commission on Surveys, on examinations partly or wholly made, considerable bodies of land ready to purchase. And if we do not have the appropriation, then all the money expended preliminary to the presentation and acquisition of these areas will not have been expended for any purpose.

The Weeks Act has inaugurated a national policy, and I think if it were submitted to a vote throughout the country to-day, after the experiences we have had under it, it would be maintained. The lands we have acquired are worth, with the forest products on them, considerably more than has been paid for them. I think the money has been prudently and wisely expended.

MR. McLAUGHLIN of Michigan. I think the committee agrees with you entirely, that the work has been well done.

MR. HAWLEY. Yes; I think the country would indorse it if it was put to a vote, as a national policy.

Now we all know that retrenchment in Government expenditures is necessary. But there are certain appropriations and certain expenditures of the Government and certain functions of the Government that must continue necessarily, and it seems to me that this is one of those functions that ought to be continued as essentially a necessary part of the Government policy.

The private owners of lands adjacent to the purchase areas are beginning to provide protection and in some instances for reforestation. In many areas it may not be necessary to buy as extensively as at first contemplated, because the lands will be protected by the private owners, at least so long as they

contain timber in merchantable quantities. But in many instances, areas are completely logged off and the merchantable timber removed. The owners do not desire to undertake reforestation. We then acquire the lands at very low prices. We buy comparatively little forested lands. We buy cut-over lands, because we can get them at a low price, get a great deal more acreage for the money, and by protecting the young growth the lands begin reforestation at once. The forested areas in private ownership, until cut, protect the watersheds.

The CHAIRMAN. Mr. Hawley, can you tell us how much money it would take to complete the purchases and carry out the program, and after that is completed, what do you propose to do?

Here is one thing that the people to-day are concerned about—the transportation charges. We have delegations here in Washington now from the Western States in an endeavor to develop some plan whereby they can solve this transportation question. I find, for instance, St. Louis has an advantage over other cities in water transportation rates. Now, what are you going to do for the people above St. Louis? It seems to me that in your considering of the navigable streams that you have overlooked the most important one—the Mississippi above St. Louis. These people are interested in this matter, too.

Mr. HAWLEY. Mr. Chairman, I am in favor of benefiting the farmers, and I don't see how the passage of this legislation—

The CHAIRMAN (interposing). The contention is that this is for the benefit of the farmers, to develop water transportation, and that it is for the benefit of the people generally. When you develop streams in the East, that does not help the people of the Middle West. Are these streams in the East of more importance than the streams of the central part of the country?

Mr. HAWLEY. My suggestion is that we do both things.

The CHAIRMAN. Yes; but we have not done that.

Mr. HAWLEY. But we desire to do so.

The CHAIRMAN. Well, what is your plan, so we will know definitely what is going to be done?

Mr. HAWLEY. Just a moment before I answer that question. The continuation of the supply of timber, especially in the East near the centers of population, is important to the farmer, because he must have every year a certain amount of timber, and as it grows scarcer he will pay more than he is now paying.

The CHAIRMAN. That is not involved in the Weeks bill.

Mr. HAWLEY. A continuance of the timber supply is a result of the protection of the forests and of reforestation.

The CHAIRMAN. Protection of the navigable streams.

Mr. HAWLEY. And naturally it results in an increase of the timber supply as well as in the protection of the navigability of rivers.

The CHAIRMAN. Absolutely; but that could not be taken into consideration in the consideration of the bill, because it would be held, perhaps, unconstitutional. Now, what we are interested in is navigable streams. That is the purpose of the law. Now, what are you going to do with the navigable streams? Are you going to devote all the time and all the money to certain streams in the East, where the wood supply is not accessible to the people in the West?

Mr. HAWLEY. The chairman will remember that when the bill was under discussion the two sections concerned in the discussion were the Appalachian and the White Mountains. We have purchased very largely in these sections by reason of the fact that our appropriation was not large enough to enable us to buy usefully in a too extended area. We have gone into Arkansas, that is true, in connection with forest lands already in the possession of the Government. Now we will go into other sections when Congress approves and shows such approval in the form of appropriations sufficient to enable us to do so. There are other sections where lands can be purchased in pursuance of the purpose of the Weeks Act.

The CHAIRMAN. How much money is it going to take? When are you going to move on; that's the question?

Mr. HAWLEY. The 20-year program proposed in the bill proposes expenditures at the rate of not to exceed \$2,000,000 per year. But it would be necessary to know how much will actually be appropriated each year in order to state advisedly how fast the work would proceed.

The CHAIRMAN. Well, how much is required?

Mr. HAWLEY. I think the amounts proposed in the pending bill should be agreed to. There has been submitted a statement of purchase for 1922, 1923, 1924, and 1925 that aggregate about 1,700,000 acres. But that all depends upon the appropriations which Congress may make.

Mr. KINCHELOE. Has that been put in the hearings, Mr. Hawley? Is it in the record?

Mr. HAWLEY. Yes. It was submitted with the statements yesterday.

The CHAIRMAN. How much money will it take to make that purchase? You are contemplating the purchasing of 1,700,000 acres?

Mr. HAWLEY. At the average rate of \$5.11 per acre for purchases made in the past, if we can buy them in the near future, from eight to ten million dollars. I feel confident that for the next few years we can purchase lands much below that general average.

The CHAIRMAN. Eight to ten million dollars?

Mr. HAWLEY. Yes.

The CHAIRMAN. All right. What is the next step?

Mr. HAWLEY. Our present plan is to consolidate the areas already established, so far as that may be necessary and practicable.

The CHAIRMAN. Yes.

Mr. HAWLEY. And then to adopt new purchase areas as funds are available and as the sentiment of Congress and the country demands extensions, and make purchase where the protection of the navigable streams will result in benefit to the people, as Congress may authorize by making appropriations for that purpose.

The CHAIRMAN. How much money would it take to do that?

Mr. HAWLEY. That is a question, Mr. Chairman, that no one could answer unless they knew what policy Congress will approve and the appropriation it will authorize and make.

The CHAIRMAN. Well, what have you in mind that Congress will do to appropriate the money? What streams do you propose to take up?

Mr. CLARKE. There are areas in Minnesota, there are areas in Michigan, there are areas in Wisconsin.

Mr. HAWLEY. It is difficult to do more than tentatively outline a suggestion for future purchases until Congress takes action indicating its purpose to continue the policy of the Weeks Act and adopts legislation embodying that continuance and also indicating the extent to which appropriations will be made for that purpose. If the policy is continued as proposed in the Wason bill the completion of the present units as far as may be necessary should be effected by the acquisition of approximately 3,500,000 acres. The extension of purchase work would include additional areas in Alabama, Virginia, and West Virginia, Kentucky, Missouri, Oklahoma, Texas, Louisiana, Mississippi, Vermont, Michigan, Minnesota, Wisconsin, Illinois, Indiana, and Ohio. This extension will depend upon the approval of areas in the several States mentioned by the United States Geological Survey as coming within the purview of the Weeks Act and the attitude of the States toward Federal acquisition of forest lands. If purchases are restricted to the acquisition of water sheds, from which navigable streams obtain flowage, this would to some extent modify the above suggestions, but what it may be possible to do depends so largely upon the action of Congress that until definite action is taken plans for the future can not be definitely made nor more than tentatively suggested. The extent to which purchases may be made in States other than those which have been examined will also depend upon the existence and opportunity to purchase of lands eligible for acquisition.

Mr. CLARKE. Arkansas and Texas?

Mr. HAWLEY. Yes; we have already made purchases in Arkansas.

Mr. KINCHELOE. Could it not be applied on those banks—both sides of the Licking River, in Kentucky and Virginia?

Mr. HAWLEY. Yes; that is normally in the Appalachian region.

The CHAIRMAN. What are you going to do; what will be your policy? Let us have something definite. You have given this matter a good deal of thought and consideration, I know.

Mr. HAWLEY. We are endeavoring to consolidate the present areas and establish purchase areas in western Pennsylvania and on the north bank of the Ohio River, because there is an immense amount of commerce on the Ohio River in Kentucky. Then proceed with the plans previously outlined as appropriations are made enabling us to do so.

Mr. KINCHELOE. You would be warranted in buying that, too?

Mr. HAWLEY. Yes.

The CHAIRMAN. But if we carry this thing on, we want to know if you are going to ask the people of the Middle West to contribute \$20,000,000 without even giving them a pleasant look.

Mr. HAWLEY. Have you any particular area in mind, Mr. Chairman? We do not intend to go into the West—the Pacific coast. There are already very large areas in the West which are well timbered and where reproduction is natural and rapid. If you have any particular areas in the Middle West of which you speak in which you think the lands should be acquired the commission is in the market to buy land for the protection of navigable streams, wherever it will be for the public good.

The CHAIRMAN. My idea is, if it is beneficial to develop these forests, it should be distributed throughout the country as a whole and wherever it will do the most good.

Mr. HAWLEY. There are no local prejudices in the commission, I assure you. We have hitherto purchased lands where we were practically directed to by the discussions in Congress.

The CHAIRMAN. I am not finding any fault with what has been done, and I am not in any sense criticizing the commission. I will agree that the money has been well spent and that the work has been well done. But, as a business man, I want to know where I am going, and what is to be done in the future.

Mr. HAWLEY. If the Congress will expand the policy we will keep step with what you want us to do.

The CHAIRMAN. In a national policy the people want to know what is to be done before they appropriate hundreds of millions of dollars.

Mr. HAWLEY. It is not a matter of appropriation of hundreds of millions of dollars, but of moderate amounts. I respectfully call your attention to the plans submitted yesterday and to-day, which I think will answer your inquiry so far as it is possible to answer it until Congress has given some indication of its purpose as to the continuance of this work.

The CHAIRMAN. If this bill passes it authorizes an appropriation of whatever amount they may see fit to appropriate, not this year, but after next year.

Mr. KINCHELOE. Is there any considerable amount of land available on the headwaters of the Mississippi River?

Mr. HAWLEY. I understand there are considerable areas of cut-over lands that might be acquired at reasonable prices. This remark is based upon information from men who formerly operated in that region.

Mr. McLAUGHLIN of Michigan. Right there, Mr. Hawley. I understood you that you did not propose to extend the purchases provided for in this bill to purchases in the West. Now, there are parts of the country in which they consider Michigan west.

Mr. HAWLEY. When I spoke of the West I meant that region from the Rocky Mountains to the Pacific coast. I should have been more specific.

Mr. McLAUGHLIN of Michigan. If you will pardon me, I think your statement should be amplified or corrected, with the further statement you have just now made, because there are some Members and others who would insist that purchases be made a good deal farther west than you have been making so far, and it might be gathered that you did not propose to.

Now, further in answer to the chairman's question, if the purchases under the Weeks Act are continued and the appropriations are made so that this can be an expanding policy, there is no limitation on the authority of the commission to make purchases of areas necessary for the protection of navigable waters and for the public good. The commission is a conservative body. Congress will, from time to time, determine the question of expansion to new purchase areas.

The CHAIRMAN. The Mississippi is, I think, of as great importance as any stream we have.

Mr. HAWLEY. One of great importance.

The CHAIRMAN. Outside of the Ohio. No mention has been made of the Mississippi River. We are contributing to this fund and we think if it is of benefit we should have some of it, especially now when the people are having a great deal of trouble about transportation and are burdened with high transportation rates. Delegations from Iowa are here now on that matter. I met some of them yesterday. There seems to be no way of solving this question. It is up to us to get cheaper transportation rates to move commodities, or move the consumer closer to the commodities. These people are very much interested in it and spend their time and money in their efforts to solve the question.

Mr. HAWLEY. I did not appreciate what the chairman had in mind a moment ago.

The CHAIRMAN. It is the one thing that concerns the people more than anything else. They are spending their time and money in trying to solve it. There are delegations here in Washington most of the time.

Mr. HAWLEY. If the policy becomes a national policy, expanding from year to year, on a sufficiently wide foundation, as proposed here, to enable us to make it a nation-wide policy, we can include in our purchases areas which protect the navigability of the streams important to commerce.

The CHAIRMAN. Then how much money would it take to carry that out? I ask you because you know more about it than anybody else around this table, and probably more than anybody else in the country, outside of those connected with the Forest Service. And I consider it valuable that we should know something definite as to the plans for carrying it out. This is a straight business proposition, just as you would want to look into any business proposition, or any other business man.

Mr. HAWLEY. Of course, the Congress will pass the matter in review every year when the appropriation is being considered, but if this bill is passed in its present form, and a reasonable appropriation made every year for 20 years, I think we can cover about the areas I have suggested.

The CHAIRMAN. You could not get as far West as Minnesota?

Mr. HAWLEY. Yes; we would get into the Great Lakes region, I should think, with the approval of Congress.

Mr. CLARKE. That is shown right on the maps here, is it not; if the appropriation is continued, that shows the areas?

Mr. HAWLEY. I so understand.

Mr. TINCHER. There is another matter that seems to me important, and worthy of the consideration of the committee. I know a man who has 120 acres of land, and he has figured out a policy that he ought to plant three or four acres of that tract in catalpas every year; that it would be a good thing to continue that as a policy. He started in on it, and finds that this year and next year he is not going to be able, by reason of his financial condition, to carry out his ordinary policy that he has adopted on that land. Now, this Government is confronted by a financial situation. As I understand, we are trying to economize. Of course they found \$10,000,000 not long ago in New York in some bank that had been forgotten—

Mr. HAWLEY (interposing). Perhaps we can find some more.

Mr. TINCHER. But I think we ought to consider the condition of the Treasury. For instance, if this fellow is reliable—and I know him very well—and he can not figure out any way to get the money to push his own proposition through, he might figure that Congress ought to stop and look and listen how they are spending the taxpayers' money. We are passing through a serious time.

Mr. CLARKE. Does the State do anything in this particular country you have in mind, at all?

Mr. TINCHER. Oh, yes; the State has projects or experiments. They spend many dollars in experiments.

Mr. CLARKE. But in trees, and in furnishing trees to people?

Mr. TINCHER. No.

Mr. HAWLEY. I have completed my statement, Mr. Chairman, unless there are further questions.

Mr. TINCHER. Yes; I am asking you this question: Don't you think we ought to give attention, in the consideration of a bill like this, to the condition of the Treasury of the United States?

Mr. HAWLEY. I think we ought to give consideration to the condition of the Treasury of the United States. I think it would be an unsound fiscal policy to stop the purchases of these lands at this time. If we do not continue our work, our organization will be disbanded, and many of the lands that have been investigated and which are ready to be presented to us in a short time, we will not be able to buy, and we will lose the advantage of the best market we will have for years.

Mr. TINCHER. Now, let us see about that: Whether it is the best market we will have for years on these lands is a matter of conjecture and opinion. You don't know whether the lands are going up or down.

Mr. HAWLEY. Well, I think the next two or three years will be the best market we will have for years.

Mr. TINCHER. I understand the Budget officer recommended \$50,000. They recommended the \$50,000 for the purpose of carrying on the skeleton organization you have mentioned.

Mr. HAWLEY. Yes, sir.

Mr. TINCHER. They have adopted the idea that we should abandon the policy that has been our policy in normal times and pursue a policy of economy, and not a policy that we would pursue under normal financial conditions; isn't that right?

Mr. HAWLEY. I am suggesting that a policy that has been nationally supported and that has proven satisfactory during the past 11 years should be continued. I think the Budget officer made a mistake in recommending only \$50,000.

Mr. SHERMAN. He said he had already made up his mind, but he said that he would hear us.

Mr. TINCHER. But you know that every man—every department of the Government wants to economize, but they want to go ahead with their own particular activities. Do you not find that to be true; they want to be made an exception and go ahead as if we were on a normal basis, and that is what you are advocating in this department?

Mr. HAWLEY. In this particular instance I am advocating the passage of this legislation because I think the country can not afford to do otherwise.

The CHAIRMAN. I understood you to say you did not contemplate buying any land in the West?

Mr. HAWLEY. We contemplate no purchases in the region between the Rocky Mountains to the Pacific coast.

The CHAIRMAN. Considering it from the point of supply, it would be, of course, of as much importance to purchase land there as anywhere else, would it not?

Mr. HAWLEY. We have such tremendous areas already forested that the protection of the navigability of the streams does not require the purchase of additional areas.

The CHAIRMAN. We are told that the supply will be exhausted in 40 or 50 years.

Mr. HAWLEY. That is of the hardwood timber, I think, and not of timber such as is found on the Pacific coast.

Mr. KINCHELOE. You stated a while ago that from the returns made the market value of this land already purchased under the Weeks Act had increased 45 per cent in value—

Mr. HAWLEY (interposing). Land and timber.

Mr. KINCHELOE. That is what I was getting at. That increase surely did not come in the rise in the value of land as of to-day, did it?

Mr. HAWLEY. The Forest Service has prepared a statement, as follows:

*Net purchase cost of land and timber compared with value of land and timber
Dec. 31, 1921.*

DEBITS.

2,047,718 acres of land at \$5.99 per acre (includes \$0.88 per acre for cost of consummating purchase) -----	\$12,275,462.37
Total cost of administration and fire prevention and improvements (does not come out of Weeks law funds) -----	1,064,711.00
Total -----	13,340,173.37

CREDITS.

Total receipts to Dec. 31, 1921 -----	413,185.00
Estimated present value of purchased bonds: -----	
2,047,718 acres of land, at \$2.77 per acre ¹ -----	6,089,364.00
4,557,220 thousand feet timber, at \$2.80 per thousand feet ² -----	12,760,216.00
Total present value -----	19,262,765.00
Less total gross cost -----	13,340,173.37
Net gain in value -----	5,922,591.63

This gain in value has been due to appreciation in value of low-grade timber (as a result of judicious purchase) and in small measure to growth resulting from protection of land from fire after purchase.

¹ Based on average price paid for land since July 1, 1920.

² Based on average price received for timber during fiscal year 1921.

Mr. KINCHELOE. The point I am getting at is the principal element that enters into this—is the conservation of the timber on it?

Mr. HAWLEY. Yes.

Mr. KINCHELOE. Certainly; the land is not worth any more to-day than it was when it was purchased.

Mr. HAWLEY. That would vary with the section.

Mr. KINCHELOE. How many States have you purchased land in under the Weeks Act?

Mr. HAWLEY. In 10 States.

Mr. KINCHELOE. Now, have you received any encouragement or cooperation in any of those States on fire protection on their local lands?

Mr. HAWLEY. Yes; a great deal. The local owners are beginning to adopt Forest Service methods in protecting their lands.

Mr. KINCHELOE. Have there been any appropriations by the States, or the local counties anywhere, to assist in the protection of these watersheds?

Mr. SHERMAN. Not any States.

Mr. HAWLEY. That completes my statement, Mr. Chairman.

The CHAIRMAN. We are very much obliged to you, Mr. Hawley.

Mr. SHERMAN. Mr. Chairman, I realize the importance of finishing this hearing. This has been now the sixth day in which you have been engaged in the hearings. I would like to present now five witnesses from five different States for not to exceed five minutes each.

The CHAIRMAN. You may proceed.

Mr. SHERMAN. I would like to present Mr. Ayres—Philip W. Ayres, forester for the Society for the Protection of the New Hampshire Forests, of New Hampshire.

The CHAIRMAN. We will hear Mr. Ayres.

**FURTHER STATEMENT OF MR. PHILIP W. AYRES, FORESTER,
SOCIETY FOR THE PROTECTION OF THE NEW HAMPSHIRE
FORESTS.**

Mr. AYRES. Mr. Chairman and gentlemen, you have already heard my statement with reference to this matter. I just want to call your attention to the fire situation in the White Mountains. I show you this map [exhibiting a map], and indicate that the parts in green that you see on this map are those that the Government has already acquired in the White Mountains. This [indicating on map] is along the Maine boundary; these acquisitions [indicating] are in Maine, and these [indicating] in New Hampshire.

Now, the Government has been unable to acquire this large piece of land in the middle, this piece that you see in the middle part here, in red [indicating on map]. This last summer a large fire got in here [indicating], which was fortunately put out. But this in here [indicating] is full of slash, and consequently full of danger from fire hazard.

Mr. KINCHELOE. That is all owned by individuals?

Mr. AYRES. It is owned by individuals. Now, it is of the utmost importance that the Government should acquire that land before fire goes through it and elsewhere.

Mr. McLAUGHLIN of Michigan. What is that big area there [indicating on map]?

Mr. AYRES. That is what the Government has not yet acquired.

Mr. McLAUGHLIN of Michigan. How much is in it?

Mr. AYRES. Fifty thousand acres.

Mr. TINCER. What is that in the green or blue?

Mr. AYRES. That is what the Government has acquired.

Mr. TINCER. There is very little left of the State; why don't you buy the rest of it?

Mr. AYRES. There is a considerable portion of the State left; this is only a small part of it.

Mr. HAWLEY. And then it goes off the tax roll.

Mr. AYRES. This is New Hampshire here [indicating]. Our State is very narrow in here [indicating].

Mr. KINCHELOE. Have these people expressed any willingness to sell this land to the Government?

Mr. AYRES. No, sir; they have not.

Mr. KINCHELOE. How are you going to get it?

Mr. AYRES. I think it could be had very cheaply, if the Government were in position to buy it. This company that owns this part here [indicating] has not felt the pinch of necessity to sell their cut-over lands.

Mr. KINCHELOE. How many companies own it?

Mr. AYRES. One company owns all of this [indicating]; this part [indicating] belongs to another company. This [indicating] is all in the hands of one company.

The CHAIRMAN. How much are they asking for that tract?

Mr. AYRES. It has not yet been on the market, but from prices paid in the White Mountains, a little over \$6 an acre would buy it.

Mr. RIDDICK. The company has an interest in protecting its lands?

Mr. AYRES. Yes; in preventing destructive fires.

Mr. RIDDICK. They can do a great deal to help.

Mr. AYRES. Yes; and the Government can do much, but there are a number of things that the Government can not do. They can not tear up the slash, for instance.

Mr. KINCHELOE. If they have expressed themselves as willing to sell, that is one thing; but if they have not, how are you going to get the land? You have never exercised the right to eminent domain, I believe, under the Weeks Act, have you, Mr. Hawley?

Mr. HAWLEY. We have that authority.

Mr. KINCHELOE. You have the authority, but you have not exercised it?

Mr. HAWLEY. We have sometimes, where it was necessary to secure a good title.

Mr. KINCHELOE. Where there were infant heirs, or something of that sort?

Mr. HAWLEY. Yes; or where it involves a question of title. We have the right, by special act, to exercise eminent domain, in addition to the Weeks Act.

Mr. KINCHELOE. I was wondering whether you have had to exercise it to the extent of going to the owner and saying, "We are going to buy this land," and where you have gone into the courts and taken it by right of eminent domain.

Mr. HAWLEY. That is a very difficult thing to do. It might not be a wise thing to do, because the local court and jury might give us a very high price per acre on that land and that would establish a price.

Mr. KINCHELOE. They usually do. I asked you if it has been done.

Mr. HAWLEY. I do not remember any specific instances.

Mr. TINCER. The testimony of one of the witnesses, who seems to know, has been that they used condemnation only where infant heirs are involved, or to perfect the title.

Mr. KINCHELOE. Yes; I believe a witness said so yesterday.

Mr. AYRES. There is one suit pending now in New Hampshire which is not a suit to perfect a title, with reference to some property in the White Mountains. That is being tried out as an experiment.

Mr. KINCHELOE. To compel the owner to sell the land?

Mr. AYRES. Yes; it is a tract which lies right in here [indicating on map].

Mr. KINCHELOE. It is your experience. I suppose, in your State, that the courts there—it is the experience of lawyers, anyway, as Mr. Hawley says—that the local courts and juries fixed it high now?

Mr. McLAUGHLIN of Michigan. But they do not have to accept it.

Mr. HAWLEY. No; but it has an effect on the price in that locality.

Mr. AYRES. Mr. Chairman, with your permission, I want to say that there are some tracts which are on the highest parts of the mountain reaches, like this [indicating] that have been acquired, which are necessary to carry out the purposes of the Weeks law, but they are more or less tracts that are covered with spruce timber, at a higher price than the Government wants to pay.

I make a plea, Mr. Chairman, for \$2,000,000. If \$1,000,000 is the amount appropriated, within a short time, possibly a fortnight, these tracts that have been examined and approved of will be taken; they will be in West Virginia and Pennsylvania and other regions, and the continuation of the policy or the finishing of the policy which was started on the White Mountains will go entirely by the board. If, however, the appropriation is larger it can be extended into the desirable regions, both in the North and in the South, and will make it possible to secure some of these regions. At the present time these regions are being denuded of timber more rapidly than ever before.

Mr. KINCHELOE. Do you mean they will cut the timber off in the meantime?

Mr. AYRES. No, sir; but I say the timber is being cut, and there will be a great deal of slash left on the land, and it will be spoiled for forest purposes.

MR. KINCHELOE. You would not advise this commission to buy these heavily timbered and higher priced lands, would you, for the Government forests?

MR. AYRES. Well, the State of New York is buying some of the higher priced lands for the State forests.

MR. KINCHELOE. That is a question for the State to decide, but so long as these lands are heavily timbered, the watershed is protected anyway.

MR. AYRES. But the mills are working there and they are cutting it with the utmost rapidity. We are pursuing a Chinese policy there, and every piece of machinery that Yankee ingenuity can devise is being used to cut the forests, and it will all be gone in one generation, instead of carrying it over, as we ought, for 150 years.

THE CHAIRMAN. Do you believe that the Government can afford to buy it and sell it and turn over 45 or 50 per cent?

MR. AYRES. We are doing it.

THE CHAIRMAN. Is it a good policy?

MR. AYRES. I think it is; it satisfies our towns.

THE CHAIRMAN. So far as the State is concerned, but do you think it is a good policy to buy it and sell it, and then give up 35 or 40 per cent?

MR. AYRES. This has already yielded to the Government a good return, and paid 35 or 40 per cent besides.

MR. KINCHELOE. Why should the Government buy these lands?

MR. AYRES. For this reason: These water powers are used at Lawrence and Haverhill and Lowell, where thousands and thousands of people are dependent on these water powers for employment.

MR. KINCHELOE. That water is protected, as long as the timber stands on that land, no matter who owns it?

MR. AYRES. Yes; but these lumber companies are cutting it with the utmost rapidity, as I say. In fact, such devastation is going on as has not been seen there before.

MR. KINCHELOE. You can buy it after the timber is off.

MR. AYRES. Not so advantageously, because then the fire hazard comes in. On these lands here [indicating] these companies are cutting off the very highest and best timber, which in Switzerland or France or Germany would not be permitted, and have not been permitted for 150 years, in the protection of their watersheds, which shows that we are 150 years behind these countries in saving our watersheds.

MR. KINCHELOE. I am frank to say I do not know how I will vote on this bill yet, but I would not vote for a bill if I thought it was a part of the policy to buy these highly timbered lands at exorbitant prices.

MR. AYRES. Mr. Chairman, may I say that here is electrical power and mechanical power and water power that depends for its continuance on these watersheds. The Government has set its hands to the plow, and unless it finishes this policy which it has begun, the whole thing is spoiled and the purposes of the act are not carried out.

MR. KINCHELOE. The same thing is true of the mountains of Kentucky?

MR. AYRES. That is true to a certain extent.

MR. JONES. Just in that connection, has the Government done anything to protect or does it intend to do anything to protect the watersheds around Muscle Shoals?

MR. AYRES. I think the Government has already made some purchases there?

MR. JONES. You do not know the extent of the purchases in the Muscle Shoals territory?

MR. AYRES. No, sir.

Now, Mr. Chairman, may I submit some things to the record, such as a list of the commercial, scientific, and industrial organizations that indorse the acquisition of these forest lands under the Weeks law, and some resolutions of forestry associations, etc.?

THE CHAIRMAN. Without objection that may be done.

MR. AYRES. I submit, Mr. Chairman, a list of the commercial, scientific, and industrial organizations that have indorsed the acquisition of forest lands under the Weeks law.

THE CHAIRMAN. Without objection it may go into the record.

(The list referred to is printed in full, as follows:)

Chambers of commerce: Boston Chamber of Commerce; New York Merchants' Association; Philadelphia Chamber of Commerce; Chicago Association of Commerce; Savannah Board of Trade; Asheville Chamber of Commerce; Minneapolis Civic & Commerce Association; Cincinnati Chamber of Com-

merce; Omaha Chamber of Commerce; Commercial Club of Kansas City; Connecticut State Chamber of Commerce; chambers of commerce in Seattle, Portland, and San Francisco; West Virginia, New Hampshire, and Massachusetts State Boards of Trade; boards of trade in Charleston, W. Va., Columbus, Ga., Columbus, Ohio, Grand Rapids, Mich., Greenville, S. C., and La Crosse, Wis.; Commercial Club, Louisville, Ky.; Springfield (Mass.) Chamber of Commerce; New Haven Chamber of Commerce.

Forestry and other scientific associations: Society of American Foresters; American Forestry Association; Massachusetts Forestry Association; Society for Protection of New Hampshire Forests; Ohio Forestry Association; North Carolina Forestry Association; Union League Club, Chicago; Western Forestry and Conservation Association; American Institute of Electrical Engineers; Associated Mountaineering Clubs of North America; Indiana Department of Conservation.

Industrial and other organizations: American Paper and Pulp Association; Lumber Dealers' Association of Connecticut; New Hampshire Lumbermen's Association; National Association of Box Manufacturers; National Lumber Manufacturers' Association; National Federation of Women's Clubs, and many State and local federations; Daughters of the American Revolution National Society; Appalachian Mountain Club; American Civic Association; American Cotton Manufacturers' Association; Eastern Shook and Wooden Box Manufacturers' Association.

Mr. AYRES. I submit a resolution from the Southern Forestry Congress indorsing the extension of publicly owned lands by Federal and State Governments for forest reservation for the purpose of the protection of stream flow and to serve as demonstration forests and to provide timber supplies for the future. This resolution was to have been presented by Col. Joseph Hyde Pratt, director of the geological and economic survey of North Carolina, who was here yesterday, but who found it impossible to stay over until to-day.

The CHAIRMAN. Without objection, the resolution may be inserted in the record.

(The resolution is as follows:)

"Resolved, That this congress is in favor of the extension of publicly owned lands by Federal and State Governments for forest reservations for the purpose of protection to stream flow, to serve as demonstration forests, and to provide timber supplies for the future."

Mr. AYRES. I submit a resolution from the North Carolina Forestry Association recommending an appropriation of \$2,000,000 a year for this purpose. This resolution was to have been submitted by Col. J. S. Holmes, state forester of North Carolina, who was also here yesterday and found it impossible to stay over. He asks that the resolution may be made a part of the record.

The CHAIRMAN. Without objection, it may be inserted in the record.

(The resolution is as follows:)

"FEDERAL ACQUISITION OF FOREST LANDS.

"Whereas, the acquisition by the Federal Government of nonagricultural lands in North Carolina for inclusion within national forests has proved a benefit to the people of the State as a demonstration in timber growing and in other ways; and

"Whereas, the Congress has adjourned without making an appropriation for the continuation of these purchases in North Carolina and in other eastern States: Therefore, be it

"Resolved, That the North Carolina Forestry Association respectfully recommends to the Congress that the former appropriation of \$2,000,000 a year for such purposes be renewed; and be it further

"Resolved, That copies of this resolution be sent to all Members of Congress from this State."

Mr. AYRES. I present a communication from the Newton Federation, comprising seventeen clubs and seven associate organizations—10,000 women in all—on this subject, and ask that it be included in the record.

The CHAIRMAN. Without objection, it is so ordered.

(The communication referred to is as follows:)

The Newton Federation, comprising seventeen clubs and seven associate organizations—10,000 women in all—wishes to express through its officers and the conservation and legislative departments, its deep regret at the action

of the Budget Committee in cutting off appropriations for purchase of national forest land at the head waters of navigable streams and for the adequate payment of the expert and already trained purchasing organization.

This action is directly opposed to the far-sighted Weeks Act passed in 1911. Since the exhaustion of the original five-year appropriation under this act—all too small at best—the irregular appropriations from year to year have fallen far behind the purchases as originally planned, while still larger and greatly needed protective areas are constantly becoming available at low prices, but no money to buy them.

This is not a sectional matter. Even if it concerned only the Atlantic watershed, any industrial, commercial, or recreational facilities affected would be of moment to the whole country. But the Appalachian Range has a western watershed as well, which through the Ohio River alone has a dominating effect upon the destructive Mississippi floods. Shall we lose the opportunity now offered for protecting the headwaters of the Monongahela and Alleghany by which the Ohio and Mississippi floods may be lessened?

Soil erosion and the increasingly acute timber shortage should alone be conclusive arguments for generous forest land provisions. Many States are doing much for themselves, but this is an interstate and national concern.

The Newton Federation therefore earnestly and respectfully urges every member of the Committee on Agriculture to do all in his power toward influencing Congress to take far-seeing and adequate measures as soon as possible for the acquisition and best management of forest lands at the headwaters of navigable streams.

The women of the country will anxiously await action by your committee and by Congress.

Mrs. FRED H. TUCKER,
Chairman, Department National Resources,
Newton Federation Women's Clubs,

NEWTON, MASS., January 9, 1922.

MR. AYRES. I have also a letter from Mr. W. M. Jacoby, executive secretary of the Flood Commission of Pittsburgh, who was here yesterday, and found it impossible to remain, and he has written a letter addressed to the chairman of this committee, which, with your permission, I would like to insert in the record.

The CHAIRMAN. Without objection, it is so ordered.
(The letter referred to is as follows:)

WASHINGTON, D. C., January 10, 1922.

Hon GILBERT N. HAUGEN,
Chairman Committee on Agriculture,
House of Representatives.

DEAR MR. HAUGEN: You will recall that in company with Mr. Sherman, of the Forest Service, and Mr. Ayres, forester of Massachusetts, I called upon you this morning relative to the fixing of a hearing upon the Wason bill. I came to Washington to attend the hearings which your committee conducted on the Snell-McCormick bill, and did not know that there was a possibility of a hearing on the Wason bill being held this week; I therefore did not make arrangements to remain and can not attend this hearing. For that reason I am taking the liberty of addressing this communication to you, and will ask Mr. Ayres to present it at the time of the hearing on the Wason bill.

I represent the Flood Commission of Pittsburgh, the plans of which comprehend the regulation of the Monongahela and Allegheny Rivers through source control, an important part of which is reforestation. The Forest Service of the United States is on record as favoring the purchase of a tract of denuded lands on the Allegheny River watershed comprising about 500,000 acres. The reforestation of this tract would do much to relieve the flood situation on that stream and have some bearing on the flood troubles of the Ohio River. This purchase will be consummated as soon as funds are made available. This would be done through the enactment of the Wason bill.

Therefore, on behalf of the Flood Commission of Pittsburgh, I most earnestly request the favorable consideration of this measure.

Yours, very truly,

W. M. JACOBY,
Executive Secretary Flood Commission of Pittsburgh.

MR. AYRES. I have also a letter, Mr. Chairman, from Mr. Gifford Pinchot with reference to this matter which, with your permission, I will ask to insert in the record.

The CHAIRMAN. Without objection, it is so ordered.
(The letter last referred to is as follows:)

DEPARTMENT OF FORESTRY,
Harrisburg, Pa., January 13, 1922.

Hon. GILBERT N. HAUGEN,

Chairman House Committee on Agriculture, Washington, D. C.

DEAR MR. HAUGEN: On behalf of the Forest Commission of Pennsylvania and the forest interests of the State which it has in charge, I desire to lay before the House Committee on Agriculture the very strong interest Pennsylvania has in the continuance of appropriations for the purchase of forest land under the Weeks law.

The Legislature of Pennsylvania recently, by unanimous vote, amended the enabling act necessary before the United States could purchase such lands within the State to conform with the requirements of the National Forest Commission. This action was taken not only with the hearty support of the Forest authorities of the State, but also with that of the flood commission and the city authorities of Pittsburgh.

In cooperation with the United States Forest Service, an area within which Federal purchases are to be made has been located upon the headwaters of the Allegheny River, and the Federal and State authorities are cooperating heartily for the common end.

Regulation of floods upon the Allegheny, in which the proposed purchases are to assist, is of the utmost importance because of the very large value and commercial importance of the property and plants located in Pittsburgh within the flood plane of the Allegheny River and for miles above the city. There is no project in which the people of western Pennsylvania have taken a greater interest.

For the foregoing reasons, and for others which do not require enumeration at this time, I desire to place in your hands the assurance that the Forest authorities of Pennsylvania are not only in hearty accord with the proposed appropriation for the purchase of additional lands under the Weeks law, but regard such appropriation as of prime necessity to the welfare especially of the western part of the State. The State of Pennsylvania is itself without funds for the purchase of these lands.

Very respectfully,

GIFFORD PINCHOT,
Commissioner of Forestry.

Mr. AYRES. I also put in, with your permission, by reference only, articles from the Boston Herald, the Pittsburgh Post, the Manchester (N. H.) Union, and the Boston Transcript, urging an appropriation, notwithstanding the omission of a recommendation therefor in the Budget.

Mr. SHEBMAN. I will call now on Mr. Reynolds, of the Massachusetts Forestry Association.

The CHAIRMAN. We will hear Mr. Reynolds.

STATEMENT OF MR. HARRIS A. REYNOLDS, SECRETARY OF THE MASSACHUSETTS FORESTRY ASSOCIATION.

Mr. REYNOLDS. Mr. Chairman and gentlemen of the committee, the Massachusetts Forestry Association is very much in favor of this bill, partly for the reasons that Mr. Ayres pointed out with reference to water power. One-seventh of the total power in Massachusetts is water power. We turn more spindles by water power in Massachusetts than are turned by such power in any other State in the Union. The water comes from the White Mountains, and yet we are powerless to protect the sources of this water power. These are selfish reasons for our desiring to protect these lands.

Mr. JONES. Why are you powerless to protect it?

Mr. REYNOLDS. We can not go into another State and buy these lands.

Mr. JONES. Oh, it is in another State?

Mr. REYNOLDS. Yes.

Mr. JONES. I was not paying attention to what you said at first.

Mr. REYNOLDS. I might say in passing that the Boston Chamber of Commerce has always been back of this policy. We have been following the policy of the commission in buying these lands in the White Mountains, and think that it has been a good business proposition.

In Massachusetts, from the other standpoint—the standpoint of producing timber—we are up against it more than any other State in the Union. Our railroad trains are already running over ties that are bought from the Pacific coast. Our timber is being bought in at probably twice as great a cost as the cost would be to grow it in our own State. We have about 5,000,000 acres in the State, and on 3,000,000 of them we can grow timber.

Mr. CLARKE. To get back to the power proposition, etc., how many employees are in the factories that utilize that power?

Mr. REYNOLDS. I could not tell you exactly.

Mr. CLARKE. What is the estimated number?

Mr. REYNOLDS. I could not make an accurate estimate. They are the employees in the factories of Lawrence, Lowell, and Haverhill.

Mr. CLARKE. Can you get that and put it in the record?

Mr. REYNOLDS. Yes; I can put it in.

MASSACHUSETTS FORESTRY ASSOCIATION,
Boston, Mass., January 23, 1922.

Hon. G. N. HAUGEN,

House of Representatives, Washington, D. C.

DEAR SIR: I appeared before your committee on January 14, representing this association in favor of the bill for the continuation of purchases for national forests under the Weeks law, and among the questions asked me was whether I could furnish the committee with statistics concerning the power derived from water used in Massachusetts and its relation to the number of employees.

I requested the department of labor and industries of the State to furnish me with this information, which is as follows:

Owned:

	Horsepower.
Steam engines and turbines	964, 307
Internal-combustion engines	11, 227
Water wheels	189, 210
Water motors	92
	<hr/>
	1, 184, 836

Purchased power:

Electric	551, 797
Other power (principally steam)	12, 896
	<hr/>
	564, 693

Aggregate horsepower _____ 1, 729, 529

It will be noted that the water wheels used by manufacturing establishments represent about 17 per cent of the total owned horsepower of the State. In addition to this the power purchased from electric companies in 1919 aggregated 551,797.

Under the term "Purchased power," you will note that the electric power is very great, and a very large proportion of this is hydroelectric, manufactured in the States north of us, but we have no statistics showing the division between the electric power made from coal and that made by water power, although we know the hydroelectric power used in such cities as Worcester is very great.

The average number of wage earners for the State in 1919 was 713,836.

The water power for individual cities was tabulated, subject to verification, as follows in horsepower of water wheels:

Holyoke	27, 427	Leominster	842
Lowell	25, 860	Boston	595
Lawrence	16, 630	Newton	595
Fitchburg	3, 864	Attleboro	587
Chicopee	3, 407	Waltham	380
Springfield	2, 855	Worcester	128
North Adams	2, 368	Revere	100
Northampton	1, 609	Haverhill	40
Pittsfield	1, 288	Towns of the State	98, 585
<i>Fall River</i>	1, 115		
<i>Taunton</i>	935	Total for State	189, 210

I think it was Representative Clarke of New York who requested this information, and while it is not as complete as I would like, perhaps it will give a good idea of the importance of water power here in Massachusetts.

I am also inclosing a comparative statement to show the relative importance of water power in New England, compared with the States east of the Rocky Mountains.

Sincerely, yours,

HARRIS A. REYNOLDS, *Secretary.*

States in which more than 10,000 horsepower are derived from water power (water wheels and water motors).

[Taken from Abstract of Census of Manufactures, 1914 (1919 figures are not yet available).]

State.	Number water wheels and motors.	Horse-power generated.	State.	Number water wheels and motors.	Horse-power generated.
New York.....	3,130	392,932	Oregon.....	278	57,275
Maine.....	1,429	258,314	Pennsylvania.....	1,585	45,355
Massachusetts.....	1,542	189,825	Virginia.....	715	44,722
Wisconsin.....	993	148,795	South Carolina.....	165	42,413
New Hampshire.....	911	128,592	North Carolina.....	523	41,181
Vermont.....	846	80,400	Rhode Island.....	268	33,649
Minnesota.....	313	73,341	Georgia.....	795	27,829
Connecticut.....	732	66,802	Montana.....	28	10,135

Mr. AYRES. Sixty thousand, I believe, on the Merrimac alone.

Mr. CLARKE. Sixty thousand on the Merrimac?

Mr. AYRES. Yes, sir.

Mr. REYNOLDS. We are interested, not only from the water-power standpoint, but from the regrowth standpoint. As Mr. Toumey pointed out, the matter of regrowth is very important.

Now, I have listened to these hearings all this week, and it seems to me one point has not been emphasized enough. An important thing in the regrowth of timber is the element of time. All the forests in the world will not produce a stick of timber without time. And the average time that it takes to grow timber in the United States is about 100 years. Certain species of timber can be grown in Massachusetts in a shorter time—white pine, for example, in about 50 years; but under the ordinary climatic conditions and the conditions of the soil, etc., it takes about 100 years.

Mr. CLARKE. Is there not a big demand for pulp wood in Massachusetts, and does it not take only about 25 years to grow pulp wood?

Mr. REYNOLDS. I don't know; we don't grow very much pulp wood. For box boards we can grow timber large enough to cut in about 35 years. But for saw timber we can not do it in much less than 50 years, not to any extent to speak of.

Now, if the statistics that have been presented to you are reliable, and we know they are, we had in this country 100 years ago about 6,000 billion board feet of timber, according to the best estimates. To-day we have about 2,200 billion. One hundred years ago we had 10,000,000 people. To-day we have 105,000,000 people. To put it in other words, we are starting this century—and we are figuring in centuries now—with ten and one-half times as many people and one-third as much wood as we had at that time.

It has been shown very conclusively that we have a virgin supply that will last not to exceed 50 years. Of course, a good deal will grow in that time. So with the natural supply and the growth that is coming on we can get along for probably 75 or 100 years. But what are we going to do then? Now is the time to decide whether we are going to have a supply then. And we are not growing timber fast enough.

In Massachusetts we are taking this matter seriously. We have already appropriated large sums for reforestation. We have bought 35,000 acres for a State forest, and we have a tax law which we believe will encourage our private owners to grow timber. We are spending about \$45,000 a year to protect the timber from fires throughout the State, and we believe that it is a good business proposition.

When our law was going through we figured the whole problem out as a matter of investment and took as a basis the 250,000 acres which we asked the State to buy and reforest. We know a good deal about white pine, probably more than any of the other species, and we found that we could grow on that 250,000 acres—considering that it was a third-quality site—that is, the poorest land that the foresters consider—on the basis of prices at that time, \$150,000,000 worth of timber, at a cost of \$91,000,000. Compound interest was figured at 5 per cent on that. If that is true, that is a good business proposition.

Mr. TINCHER. There is always something that takes the joy out of life in these things. I figured once on a fortune on black locusts, but the borers along about the third year interfered with my plans. As I understand you, you come down here from Massachusetts this morning to advocate a watershed to protect the water power, and one of the things you argue is that it enables your mills to have cheap power. I think that is commendable, and I am glad to know that somebody in Massachusetts advocates some form of paternalism. There was a man from Massachusetts in the Continental Congress, was there not, that advocated the buying of the flint beds by the Government so that the Government would never be out of flintlocks for their guns?

Mr. REYNOLDS. I am not up on that history; I don't know.

Mr. TINCHER. I do not want to use that on you, but there are some of your Massachusetts Congressmen that it could be used on. Most of your fellows in Congress will vote against anything that smacks of Government interference or help along these lines.

Mr. REYNOLDS. Mr. Chairman, I have not followed the votes, but I think our Massachusetts delegation has voted very favorably for this.

Mr. KINCHELOE. But they did not for good roads.

Mr. REYNOLDS. Of course, it comes back to a question of what we consider a national proposition. In Massachusetts we build our own roads, and we have pretty good roads, too.

Mr. TINCHER. I think the matter of good roads is a national proposition. Why should Kansas worry about your water power? If we are to work on the same proposition as you do with reference to the road question, why should I not go on the floor of the House and fight this, if we can not get any help from it? I rather agree with you that it is a national proposition.

Mr. KINCHELOE. I rather think Massachusetts is doing its part toward the building of roads.

Mr. REYNOLDS. Mr. Chairman, we simply wanted to put ourselves on record in favor of this matter and I have taken all the time that I should take at this time.

The CHAIRMAN. We are much obliged for your statement.

Mr. SHERMAN. I will now call Mr. Dana, State Forester of Maine.

The CHAIRMAN. We will hear Mr. Dana.

STATEMENT OF MR. SAMUEL T. DANA, FOREST COMMISSIONER OF THE STATE OF MAINE.

Mr. DANA. Mr. Chairman, and gentlemen of the committee, I realize that the time is late, and I will not keep you long. Mr. Sherman whispers in my ear, two minutes.

All that I wish to say is that Maine is interested in this bill, both from a selfish standpoint and from a national standpoint. We have two rivers affected by the bill that have considerable waterpower—the Saco and the Androscoggin. The Androscoggin, in fact, has more potential waterpower than the Merrimac, which was referred to by Mr. Reynolds. Those two rivers are protected by watersheds only parts of which are in Maine. We are therefore interested in the completion of the purchase program which would provide for their protection.

We also think that this entire problem is a national one, because it is one that the individual States can not handle by themselves.

I want to emphasize one point Mr. Ayres made. That is the necessity of acquiring these lands quickly, because lumbering operations and consequently the fire hazards, are increasing, and it is much more difficult to get trees growing on these mountain lands after they have been burned over than it is in the plains country. This has been well illustrated in Sweden and in France, but I speak of Sweden particularly, because there they have a national law providing that forest lands shall not be devastated. The law also provides for the reforesting of cut-over lands, with suitable penalties for failure to do so. Yet this law has

been criticized in its application to mountainous areas because these mountain lands can not readily be brought back into productivity, and steps should therefore be taken to see that no such devastation is allowed in the first place. The very best way to do that is for the Government to own the mountain lands and to see that they are protected and cut, if cutting is allowed, in such a way as to secure reforestation.

Mr. KINCHELOE. Does the State up there own any land?

Mr. DANA. In Maine.

Mr. KINCHELOE. Yes.

Mr. DANA. The State acts as trustee for about 350,000 acres of school lands for which it cares, but it does not own these lands in the sense that Pennsylvania and New York own their State forests.

Mr. KINCHELOE. Does the State protect the land in any way from fire, or furnish any fire protection?

Mr. DANA. Yes; the State appropriates about \$157,000 a year for protection from fire in that part of the State.

Those are the two points I wanted to make in my two minutes, Mr. Chairman. The CHAIRMAN. We are very much obliged to you.

Mr. SHERMAN. I will now call upon Mr. Philip P. Wells, of Connecticut.

The CHAIRMAN. We will hear Mr. Wells.

STATEMENT OF MR. PHILIP P. WELLS, PRESIDENT OF THE CONNECTICUT FORESTRY ASSOCIATION.

Mr. WELLS. Mr. Chairman, I simply want to say, in a very few words, that we, in Connecticut, are in favor of this proposition. We are particularly interested in the White Mountains. The Connecticut River, the largest river in our State, which carries a good deal of commerce, and which has some water-power developments within the limits of Connecticut, and will have some more soon above Hartford, needs the protection afforded by the White Mountains.

I may say that I was the law officer of the Forest Service when the Weeks law was formulated, and that I have even a greater interest in the national proposition.

And I should like to see the larger policy adopted as the ultimate governmental policy, so that this policy could be applied all over the country, and especially to those lands in the Middle West. That would very greatly help the Middle West.

Mr. KINCHELOE. You mean the Snell bill?

Mr. WELLS. That part of it which applies to purchases.

Mr. KINCHELOE. How much money does your State appropriate for fire protection—any?

Mr. WELLS. Yes. We have a fire warden in every town, and one in each county, and one in the State, and the underwardens are responsible to the State warden.

Mr. KINCHELOE. Are they paid for by the State?

Mr. WELLS. Yes, sir.

Mr. TINCER. In order that you might not be misunderstood, I do not understand that you are for sections 1 or 2 of the Snell bill?

Mr. WELLS. No; I am not.

Mr. TINCER. Nor section 3?

Mr. WELLS. The provision with reference to survey?

Mr. TINCER. Yes.

Mr. WELLS. I don't know that I am entirely in favor of it. I am not a forester; I am a lawyer. I had thought that it was a good thing, but not at all necessary until the forestry policy was indicated.

Mr. TINCER. Then you would not favor sections 1 and 2 of the Snell bill?

Mr. WELLS. No; I am for the Capper bill.

The CHAIRMAN. We are very much obliged to you.

Mr. SHERMAN. I will now call Mr. Hall, of Chicago.

The CHAIRMAN. We will hear Mr. Hall.

STATEMENT OF MR. WILLIAM L. HALL, SECRETARY OF THE CENTRAL STATES FORESTRY LEAGUE, CHICAGO, ILL.

Mr. HALL. Assuming that the committee is willing to accept these two things:

First, from the argument that has been presented in these past six days, that we have in this purchase program a very important subject with which to deal.

And, assuming, in the second place, that you are satisfied that the work so far has been reasonably well handled, I wish to direct my remarks for a moment or two on what should be the next step.

The officers of the Budget have recommended an appropriation of \$50,000. If that is accepted, it would mean, I think, that no additional lands will be acquired during the fiscal year 1923. As many of the best men of the force as can be kept will be kept on, and they will clean up the work which is on hand, if any. That will mean that much increase in the overhead. We talked about the overhead a few days ago, and it is unfortunate that 40 cents an acre has to be spent on title examination. But every time the appropriation goes down this year, and up the next year, requiring an irregular force, that overhead is increased. So that the cooperation of this committee and of Congress is necessary, if a reasonable limitation of overhead expenses is to be maintained. Therefore, I believe it would be very unwise to except this work, in view of the seriousness of our problem; in view of the fact that a certain amount of our overhead expenses will go on anyhow, it would be a most unwise thing to except even for the fiscal year 1923.

Mr. KINCHELOE. I understood from your first statement that you are for the Snell bill?

Mr. HALL. In general, yes, sir.

Mr. KINCHELOE. Suppose the Congress should pass only one, either the Snell bill or the Wason bill; which one are you for?

Mr. HALL. Immediately the Wason bill. That is the next step ahead.

Mr. KINCHELOE. Do you think that the \$3,000,000 provided for in section 3 of the Snell bill could be appropriated with much more benefit?

Mr. HALL. In place of this?

Mr. KINCHELOE. Yes.

Mr. HALL. Absolutely not.

Mr. KINCHELOE. I say, don't you think the \$3,000,000 provided for in section 3 of the Snell bill could be spent more judiciously?

Mr. HALL. For this purpose?

Mr. KINCHELOE. Yes.

Mr. HALL. Than for that purpose?

Mr. KINCHELOE. Yes.

Mr. HALL. It would be my individual judgment that it could.

The next point: If you recommend more than \$50,000 for the year 1923, should it be \$1,000,000 or should it be \$2,000,000? This is a big project on which we are working. If you appropriate \$1,000,000 for the fiscal year 1923, I think we would all agree that it should be used for continuing purchases where purchases have already started and not to branch out any further. But I think the situation has come to where we should go beyond these areas. I think we should go into that area which has been laid out in Pennsylvania, and I think we should go into the area which has been laid out on the Licking River in Kentucky. They are immediate steps.

If the Geological Survey can find any conditions in the Lake regions, on the streams emptying into the Lakes, to justify purchases on them, by all means the purchase should begin in the Lake region, because it is of the utmost importance that the middle section of the country should have some timber coming along so that when the timber is gone in the South, which will be in a few years, there will be a supply coming down from Nebraska and Kansas and those middle western States.

Mr. JONES. How about the Muscle Shoals section; is there any timber on that?

Mr. HALL. Yes; that is in the Appalachian section. The Tennessee River immediately drains the Appalachian section.

My belief then is that it is important to give authority to appropriate \$2,000,000 for the fiscal year 1923. I believe that from all the considerations which I hold in mind, realizing that it is important to conserve the resources of the country; and I am taxpayer now on the outside, and not a Government official; realizing on the other side that for the next year or two will be probably the best years we will see to buy timber, or that we will see for many years to buy cut-over lands; to balance all these factors together, in my judgment we ought at once to get back to the basis that we had when the Weeks bill was first enacted, of \$2,000,000 a year. We need to go beyond that. We must have a policy of branching out. I am not in favor of branching out too fast. But I am in favor of checking it up this year, and next year, if we can justify it, I will be in favor of \$2,000,000 a year, but if we can not justify it, then of going ahead and doing what we can.

We have a national problem. You have a problem here you can not deal with with \$1,000,000 this year and some other amount next year. There must be a steadiness in the carrying out of this policy. We can not have satisfactory results unless we have a steady policy, and to make a steady policy we must have satisfactory results, no matter whether the industries of the country are pushed a little harder this year. Of course, we need to hold to the sum of conditions, but here is a policy which is for the future, and which should be begun and consistently followed.

Mr. HAWLEY. I think it should appear that Mr. Hall was formerly connected with the service and was in charge of this part of the commission's work.

Mr. KINCHELOE. That already appears in the record.

Mr. SHERMAN. Mr. Chairman, the question was raised about the possibility of this fund being used for other purposes than the purchase of land, and I was asked to submit a wording which would safeguard that. I will do that. My suggestion is that on this measure, following the "to," in line 8, strike out everything that follows—

Mr. KINCHELOE (interposing). Strike out the balance of the bill?

Mr. SHERMAN. Strike out the balance of the bill, and insert the words so that it will read, "such sums as Congress shall appropriate to be expended under the provisions of the act of March 1, 1911 (36th Statutes at Large, page 961), as amended, for acquisition of additional lands at headwaters of navigable streams."

That simply paraphrases the previous appropriations which have been found to stand the test.

The CHAIRMAN. Would that include overhead charges?

Mr. SHERMAN. That would include the overhead charges and anything of that sort.

Mr. KINCHELOE. It is contemplated that the overhead charges should be taken care of in this bill?

Mr. SHERMAN. Yes, sir.

The CHAIRMAN. But not protection from fire?

Mr. SHERMAN. No, sir; not protection from fire.

Mr. KINCHELOE. Will you leave the suggested amendment with the committee?

Mr. SHERMAN. Yes; I will leave that with the committee.

That completes the statements we have to make, and we thank you very much.

Mr. AYRES. I think the committee would like to know that Mr. Anderson's committee begins its hearings on this part of the appropriation soon, and it was he who requested that this matter come before this committee.

The CHAIRMAN. Mr. Andrews will start in about the first of next month.

What do you say about the suggestion of Secretary Weeks that the matter be taken up with the Appropriations Committee?

Mr. SHERMAN. With reference to that, it seems to me, inasmuch as this is not an appropriation but an authorization for an appropriation, that this committee need not wait for a supplemental report from the Budget Bureau. They may advise the Appropriations Committee of their desire before they act.

The CHAIRMAN. But they are jealous of their prerogatives.

Mr. HAWLEY. It is like any other legislation; it is the authorization on which the Budget officer would act. Without such authorization, no expenditures or appropriations would be made.

Mr. TINCHER. Perhaps I do not understand this fully. It is my own fault. But the weeks law is in effect; it is not repealed in any way. Your department made certain recommendations to the Budget committee. The Budget Bureau made its report to the Budget officer, and the Budget officer made his report to the Appropriations Committee. Now, it looks to me that the least this committee could do would be to give authorization, and perhaps avoid a point of order.

Mr. KINCHELOE. You were away this morning, Mr. Tincher, I think, when Secretary Weeks was here. He says it is the contention of the Appropriations Committee that this basic act has expired, and therefore it would be subject to a point of order.

Mr. TINCHER. I did not hear that. I thank you, Mr. Kincheloe.

Mr. SHERMAN. That was Mr. Anderson's contention, as chairman of the sub-committee.

Mr. HAWLEY. Mr. Anderson told me that within 10 days around a luncheon table.

Mr. SHERMAN. At any rate he says they do not plan to exercise such authority.

Mr. TINCHESTER. If that is true—not wishing to get on the territory of any other committee—of course, we do not want the Weeks law to die; we want to keep it, but we do not want to see any unreasonable freedom with the resources of the Government, and why insert any amount?

Mr. SHERMAN. I am not sure that it is necessary.

Mr. HAWLEY. This is a limitation on their authority.

Mr. KINCHELOE. It is a restriction and a limitation on them.

Mr. HAWLEY. Yes; it would prevent the Budget officer recommending \$5,000,000.

Mr. KINCHELOE. By the way, what has been the appropriation under the Weeks law?

Mr. SHERMAN. The original Weeks law provided \$2,000,000 a year.

Mr. KINCHELOE. What has actually been the appropriation?

Mr. SHERMAN. The first year Congress made a part of the appropriation that had lapsed available; and then during the war there was an appropriation of \$600,000, and last year an appropriation of \$1,000,000.

Mr. JONES. For certain purposes, or for the total Weeks law?

Mr. SHERMAN. For purchases of land under section 3. That is all we have to present, Mr. Chairman.

The CHAIRMAN. We are very much obliged to you. That, then, closes the hearing. The sugar hearing is set for Wednesday morning. Without objection the committee will stand adjourned until Wednesday, January 18, at 10 o'clock.

NATIONAL FOREST RESERVATION COMMISSION,
Washington, D. C., January 14, 1922.

HON. GILBERT N. HAUGEN,
House of Representatives.

DEAR MR. HAUGEN: In appearing before your committee January 14 in support of H. R. 9667, providing for the purchase of forest lands at the headwaters of navigable streams, I suggested that you withhold action awaiting the results of my efforts to secure from the Bureau of the Budget a supplemental estimate for this activity.

My attention has been called to the fact that this item is considered by your committee because there is some doubt of the authority of the Committee on Appropriations to include such item in the annual appropriation for the Department of Agriculture without it being subject to a point of order, this being based upon doubt of the Weeks law being permanent legislation. It appears to me to be very desirable to clear up this point. If your committee will strike from H. R. 9667 any reference to a specific sum of money, thereby confining the measure purely to matters of policy and administration, I feel that its enactment would be very desirable and would not be in contravention of the policy or purposes of the Budget Bureau and need not await action by the bureau.

Very sincerely, yours,

JOHN W. WEEKS,
Chairman National Forest Reservation Commission.

(Thereupon, at 12.10 p. m., the committee adjourned, to meet on Wednesday, January 18, 1922, at 10 o'clock a. m.)







